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# MILITARY MISCELLANY;

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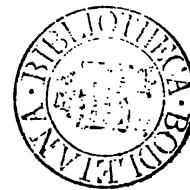
A HISTORY

OF

THE RECRUITING OF THE ARMY,

MILITARY PUNISHMENTS,

&c. &c.



BY HENRY MARSHALL, F.R.S.E.,

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—  
1846.



“Les ignorants appellent l’administration militaire un métier; ceux qui la connaissent savent qu’elle est une science, et une science tellement compliquée, que l’étude d’une de ses branches absorberoit la vie la plus longue. Pour posséder les éléments de l’administration de la guerre il faut avoir appris son origine, ses progrès, ses règlements, et les moyens divers employés par les peuples pour lever des armées, les organiser, les armer, les équiper, les solder, les mettre en mouvement, les faire subsister en santé et en maladie, les diriger sur le champ de bataille, profiter de leurs succès, reparer leurs défaites, les récompenser, les punir, conserver la tradition des actes heureux ou funestes.”

—(Audouin, *Histoire de l’Administration de la Guerre*, vol. iv., p. 144.)

“To the Generous Reader.—You may ask me what moved me to write these discourses? If I were put to the rack till I gave you my reason, I could give you no other than this, that being out of employment, and not accustomed to an idle life, I knew not how to pass away my solitary and retired hours with a more harmless divertisement.”

—(Sir James Turner, *Pallas Armata*.)



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## N O T I C E.

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THE leading object of the author of this Miscellany is, to supply the reader with some information respecting the constitution, laws, and usages of the Army, and to excite attention to the means which may meliorate the condition of soldiers, and exalt their moral and intellectual character.



## MILITARY MISCELLANY.

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### CHAPTER I.

#### HISTORICAL SKETCH OF THE RECRUITING OF THE ARMY.

THE military force of a nation may be considered under two points of view:—1st, as a defensive force, which is the true character of the militia; and 2ndly, as an offensive force, in which light a standing army may be regarded.

##### I.—OF THE DEFENSIVE MILITARY FORCE.

A.D. 1066.—William I., surnamed the Conqueror, made the conquest of England. By the Anglo-Saxon laws, every freeholder, if not every freeman, was bound to defend his country against hostile invasion, and to preserve internal peace; and these laws continued in force after the Conquest.

A.D. 1154.—Henry II., whose reign commenced this year, enacted, by consent of Parliament, that every freeman should, according to his means and substance, hold himself in readiness, constantly furnished with suitable arms and a prescribed warlike equipment. In course of time, every man between the ages of fifteen and sixty was ordered to be assessed, and sworn to keep the required armour, according to the value of his lands or other property, which armour was mustered and examined by constables every six months. The Sheriff, as chief conservator of the public peace and minister of the law, was authorised to summon the *posse comitatus* (power of the county) when the public peace was interrupted, or when any legal process was forcibly obstructed. In seasons of public danger, it became customary for the King

to issue Commissions of Array, empowering those to whom they were addressed to muster, organise, and train the men, between certain ages, capable of bearing arms, and to hold them in readiness to defend the kingdom. This militia, or domestic military force, seems originally to have been liable to be marched to any part of the kingdom; but in the reign of Edward III. (crowned 1327) it was decreed that no man thus raised should be sent out of the county, except in cases of great public emergency.—(Hallam, *Constitutional History of England*.)

Although every able-bodied man, between the prescribed ages, was liable to be called upon to serve in a military capacity when the State was in danger, the common practice was to levy one man for every five hydes of land. A hyde or carucate (a plough-gang, Scotch,) of land, is about 120 acres. There were 243,600 hydes in England, thus affording a force equal to 48,720 men.

In the year 1498, during the reign of Henry VII., a number of gardens were converted into a field, for the use of the London archers, or Trained Bands (companies), and part of it was walled in, and denominated the Artillery Ground. During the early part of the seventeenth century these companies in London and Westminster amounted to 25,000 men. Our ancestors appear to have been generally trained to military exercises, the citizen of former times being both soldier and craftsman. James I., who ascended the throne of Scotland in 1424, passed an Act whereby it was ordered that “every boy, when he came to the age of thirteen, should be obliged to practice archery at certain bow-marks;” and by 6th Henry VIII., (1515,) all male servants had to provide themselves with one bow and four arrows, which their master was to pay for; and the inhabitants of every city, town, and place, were to erect butts, and practice shooting on holy days, and at every convenient time. Every person above seventeen, and under sixty years of age, who was convicted of being without a bow and arrows for one month incurred a penalty of 6s. 8d. The whole male population, in ancient times, may thus be said to have formed a disciplined army; that is, every person learned the use of arms, and was ready to defend himself, his family, and his possessions from an invading force. By these means a warlike spirit was created among the people, and kept up by constant discipline and an occasional sense of danger.\*

\* *Specimen of a Military Muster during the reign of Henry VIII.*—“In the 23rd of Henry VIII., (1532,) at a general muster in London, were first taken the names of all men within this city and liberties only, (which reach not far without the

Queen Elizabeth appears to have mustered the defensive military force occasionally. "At one muster there were found in all England, fit for war, of common soldiers about 400,000, and of those armed and trained 185,000, besides horse near 40,000; and that the nobility and gentry were then able to bring into the field, of their servants and followers, 20,000 men, horse and foot—choice men and excellent horses; and in all fit for war, and ready upon all occasions, 642,000, leaving sufficient to till the ground and to furnish trades, besides nobility and gentry."—(Chamberlayne, *Present State of England. Ninth Edition*, 1676.) In these times the whole population formed a standing army, for the security of the kingdom. In illustration of the rapidity with which a force might be collected among a population thus trained and disciplined, when they considered themselves called upon to defend their lives and property, or their rights and privileges, it may be stated that, in 1559, when it was supposed the Queen Regent was taking measures to re-establish Popery in Scotland, the Earl of Argyle and other persons in authority, marched out of Perth with 300 citizens, resolved to prosecute the Reformation or perish in the attempt. To shew their zeal and resolution, instead of ribbons, the symbol of gaiety, *they put ropes about their necks*, to denote that whoever deserted their colours should certainly be hanged; and from this circumstance arose the proverb of "St. Johnston's ribbons." With this inconsiderable force they

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walls,) from the age of sixteen to sixty, also the number of all harnesses, and of all sorts of weapons for war; then they drew out of these only such able men as had white harness, and caused them all to appear in white coats, white breeches, and white caps and feathers; and because notice was given that the King himself would see them muster, they all prepared to appear as splendidly as they could; and to that end, the Lord Mayor, Aldermen, Recorder, and Sheriffs, and all who had been Sheriffs, had all white harness, and over that coats of black velvet, with the arms of the city embroidered thereon, each one a great gold chain, and mounted on a goodly horse, with rich trappings, on their heads velvet caps, in their hands battle-axes gilt; each Alderman and the Recorder had four halberdiers, in white silk or else buff coats, waiting on them, with gilt halberds: and the Lord Mayor had sixteen tall men apparelléd in white satin doublets, caps and feathers, chains of gold, and other gorgeous attire, with long gilt halberds, following his Lordship at a distance; but next to him he had four footmen in white satin, then two pages clothed in crimson velvet and cloth of gold, riding on gallant horses richly furnished, one of them carrying the Lord Mayor's helmet, and the other his pole-axe, both richly gilt and adorned. Most of the citizens of any quality or office were in white satin or white silk coats, with chains of gold, and some with rich jewels. What was the number then of men-in-arms, was not recorded: but that may be guessed at by what follows:—They mustered in Mile-end-Fields; and before nine of the clock in the morning, began to march, entering at Aldgate, in excellent order down to Westminster, where the King and Court stood to view them passing by; thence they marched about St. James's Park, so through Holborn, up to Leaden Hall, and there disbanded immediately; and yet this was not done till five of the clock in the evening, which was eight hours' continued march."—(Chamberlayne, *Present State of England. Ninth Edition*, 1676.)

advanced, and wherever they came, the people, who were all more or less disciplined, joined them in a body, and before they reached Stirling the army amounted to 5000 men.

A.D. 1641.—Charles I. came to the throne in 1625 ; and during this year (1641) the Parliament assumed the control of the militia, and issued orders for its being mustered and organised ; and about the same period, the King issued Commissions of Lieutenancy to some of the nobility for a similar purpose, and thus began a long and memorable civil war.

The citizens of London were, by this time, carefully trained in the use of the pike and musket. These trainings were originally very irksome to weary artisans and thrifty shopkeepers, there being a general muster once a year, while the drilling of individual companies took place four times a year, and lasted two days each time. The Puritans at first abhorred these warlike musters in the Artillery Gardens ; but when they were taught from the pulpit, that their projected reformation could be accomplished only by carnal weapons, they crowded to the exercise with alacrity. The proud cavaliers laughed scornfully at these new displays of cockney chivalry, and were wont to declare, that it took a Puritan two years to discharge a musket without winking. But the laugh was turned against themselves after the civil wars commenced, when the pikes and guns of the civic militia scattered the fiery cavalry of Prince Rupert, and bore down all before them.

When these Puritans were converted into actual soldiers, they “marched to the field in high-crowned hats, collared bands, great loose coats, long tucks under them, and calves’ leather boots : they used to sing a psalm, fall on, and beat all opposition to the devil.” The moral force of an army of this kind, could not be effectually resisted by mercenary troops.

In some instances, the raising a body of troops appears to have been very expeditiously effected in Scotland. By order of Charles II., in 1651, the whole citizens of Perth marched out to the South Inch, where they cheerfully made choice of 100 men, who were to march to Burntisland to watch the motion of Cromwell’s fleet and army. This company joined an army at Dunfermline, consisting of 3000 men, which was attacked and defeated by a superior number of Cromwell’s cavalry, 1600 being killed, and 1200 taken prisoners.

A.D. 1660.—At the Restoration, the national militia was re-established, and the chief command vested in the King. After

a few years, however, the regulations for mustering the men ceased to be observed, and the trainings of the militia were for a long time discontinued in every part of England, except the city of London.

In certain cases, such as a tumultuous obstruction of legal authority, the Sheriff is competent to call out the *posse comitatus*, (power of the county,) in order to enforce obedience.

The mode of levying the defensive military force during the reign of Charles II., is thus described by Chamberlayne (*Present State of England, Ninth Edition*, 1676). “The King,” says he, “himself makes choice of divers of the principal peers of this kingdom, and creates them Lord Lieutenants of the several counties of England, with power to arm, array, and, when necessary, to employ the men so armed within the counties and places for which the said Lords are commissionated, or into any other county, as the King shall order.” Commissioned officers to be recommended to the King by the Lord Lieutenants, who are empowered “to charge any person in the county with horse, horsemen, and arms, or foot soldiers and arms, within the said county, proportionably to their estates; with limitation that no person be charged with a horse unless he hath 500*l.* yearly revenue, or 6000*l.* personal estate. No person can be charged with a foot soldier, unless he hath 50*l.* yearly revenue, or 600*l.* personal estate. Those that have meaner estates, are to join two or three together, to find a horse or horseman, or a foot soldier.” The men so levied, were to be called out once or twice a year; and each horseman, during the time he was employed, to be allowed 2*s.* a day, and each foot soldier 1*s.* a day. “These forces,” says Chamberlayne, “are always in readiness, with all things necessary, at the beat of a drum or sound of trumpet, to appear, muster, and be compleat, with men, horses, and arms; and are at certain times trained and disciplined, that they become able, skilful, and useful soldiers.”

In addition to the “standing militia,” the Lord Lieutenant of each county was authorised to levy, when directed, the “train bands” of every county; “so that,” says Chamberlayne, “in all times of peace, the King hath six or seven score thousand men enrolled, and wholly and solely at his disposing, for the defence of his kingdom of England.”

A.D. 1756.—Under the apprehension of an invasion, the militia was embodied in 1756; and in the 26th George III. (1786), all the previously existing statutes relating to the militia were formed

into one law. Additional regulations were, however, made by Acts passed in the 42nd, 51st, and 52nd years of the same reign.

A.D. 1798.—The Militia Act was extended to Scotland, and 6000 men were raised this year.

A.D. 1805.—An Act of Parliament was passed to permit militia-men, in the proportion of three-fifths, to engage in the regular military service. In 1808, the militia was divided into a general and local force; the former available for service in all parts of the kingdom, while the latter was reserved for service in the counties.

As the law now exists, all persons between the ages of eighteen and forty-five, not labouring under bodily infirmity, and not specially exempted, are liable to be chosen by ballot for private militia-men, and to serve for five years, either personally or by an approved substitute.

When there are vacancies to be filled up, which have been caused by death, invaliding, or any other cause, the Deputy Lieutenants are required to make a new ballot in the respective parishes. In France, a more simple plan is adopted:—the individuals are summoned who by their number immediately follow those drawn in the first ballot.

In the event of this country being again at war, and it being deemed expedient, in consequence, to call out the militia for permanent service, I think it not unlikely that considerable opposition would be made to the measure. A community of which about two-thirds are employed in trade or commerce, is peculiarly unfavourable for recruiting an army by compulsion, or by a forced conscription. The ballot operates as a tax, and no tax can be more iniquitous and oppressive than where the objects are selected, not because they are able to pay, or because they have property to preserve or defend, but because they happen to be of a certain age, and possess the requisite strength. But the measure is still more indefensible, when substitution is permitted; it being no hardship for a rich man to provide a substitute; but personal service may irretrievably ruin a poor man, and to pay for a substitute may be far beyond his means. Whatever army may be deemed requisite for the defence of the country and its colonies, should be raised by Government, and the expense defrayed by the community at large. It is both unjust and cruel, to force individuals to serve in a military capacity, when a little better encouragement would induce a sufficient number to enter the service voluntarily.

II.—OF THE OFFENSIVE BRANCH OF THE MILITARY FORCE,  
THE STANDING ARMY.

A.D. 1066.—By the tenure of knight's service, or, in other words, by the tenure of feudalism, every tenant of the Crown was bound, whenever the King went to war, to furnish an armed soldier and maintain him in the field for forty days, for each knight's fee that he possessed. There were in England 60,215 knights' fees, each fee comprehending four hydes, or 480 acres of land. According to the principles of feudal monarchy, the owners of land were bound to attend the King in war, either within or without the realm, mounted and armed at their own expense, during the regular term of service. Minors, females, and ecclesiastics, were required to find substitutes; and vassals, who were unwilling or unable to perform military service in person, were obliged to compound with the King. Beyond the period specified they could be retained only by their own consent, and at the King's expense. The feudal chiefs who attended the King when he took the field were chiefly mounted, forming a heavy armed cavalry.

A.D. 1154.—The mutual inconvenience resulting from the nature of feudal military service disposed both parties to consent, during the reign of Henry II., to commute this burden into a money payment of 20*s.* for each knight's fee, which obtained the name of scutage, or shield-money, being, in practice, a tax for furnishing a soldier armed with a bow. This pecuniary satisfaction was much abused, and eventually became a means of great oppression, scutages being illegally levied, solely by the Royal authority, and without the sanction of Parliament. The undue levying of scutages became, therefore, a national complaint; and, so early as 1215, King John was obliged to promise, in his Magna Charta, that no scutage should be levied without the consent of the common council of the nation, which charter also “protected every individual of the nation in the free enjoyment of his life, his liberty, and his property, unless declared to be forfeited by the judgment of his peers or the law of the land.”

The territorial impost anciently levied under the name of scutage, hydage, and talliage (cuttings), was the parent of the ancient subsidies granted to the Crown by Parliament, and the land-tax of later times. Hydage and talliage were taxes of the same nature as scutage, upon other lands, and upon cities and boroughs.

A.D. 1303.—As in England, forty days was the usual period of military service rendered by vassals in France, until the reign

of Philip the Fair. Before his time, the armies which served longer than forty days, or in a foreign country, received pay. Hostilities at that time were not long protracted ; for, if a war was not speedily brought to a conclusion, the soldiers dismissed themselves, and left the field. To remedy this defection, Philip adopted a new plan, and ordered the period of service to be extended to four months. This mode of oppression was often repeated ; and henceforth the duration of service was measured by the probable length of the campaign, and not, as formerly, when the military expedition was measured by the usual duration of service. A similar abuse of power was eventually practised by the Sovereigns of the other states of Europe.

A.D. 1327.—Edward III. succeeded to the throne. With the view of completing the feudal armies with infantry, it would appear that persons were illegally pressed to attend the Kings when they took the field. These levies became, in the course of time, vexatious, and Edward III., on the petition of his first Parliament (1327), enacted “That no man from henceforth shall be charged to arm himself otherwise than he was wont in the time of his progenitors, the Kings of England ; and that no man be compelled to go out of his shire but where necessity requireth, and sudden coming of strange enemies into the realm ; and then it shall be done as hath been used in times past for the strength of the realm.” This statute is supposed to have put a stop, for a considerable time, to the arbitrary and illegal pressing of men for the army.

Edward had recourse, however, to another means of levying men without expense to himself, by calling on counties and principal towns to furnish a certain number of troops ; but against this measure the Parliament provided a remedy, by passing an Act, in the twenty-fifth year of his reign (1352), to the following effect :—“That no man shall be constrained to find men-at-arms, hoblers, nor archers, other than those who hold by such service, if it be not by common assent and grant in Parliament.” Both these statutes were confirmed in the fourth year of Henry IV. (1403). Hoblers were a species of light cavalry, and obtained that name in consequence of the men being mounted upon “*hobbies*,” or very small horses.

The pay of a common archer, during the reign of Edward III., was raised to sixpence a day, equal to about five shillings of our money, and double that of an artificer. But, in all probability, only a very limited portion of the army was paid at this rate, for

we find that Edward's army before Calais consisted of 31,004, and yet its pay, for sixteen months, was only £127,000, or about five shillings per man *per month*. Hume conceives that "the numerous armies mentioned by historians in those times consisted chiefly of ragamuffins, who followed the camp and lived by plunder. Soldiers," says he, "were then enlisted only for a short time: they lived idle all the rest of the year, and commonly all the rest of their lives; one successful campaign, by pay and plunder and the ransom of prisoners, was supposed to be a small fortune to a man, which was a great allurement to enter the service."

By the measure of commuting military service for money a revenue was acquired, which was employed in hiring native-born subjects to serve as soldiers. For this purpose the King usually covenanted with influential persons to serve him with a specific number of followers, in terms of an indenture or contract, during each enterprise. It was usual for the King to advance a sum of money to the contractor, under the title of "imprest money," a term derived from the French word *prêt*, a loan,—the sum advanced being considered as lent, to enable the men to provide the requisite equipment and necessaries for the field.

An expedient sometimes practised to procure troops for foreign service was to pardon criminals, on condition of their serving in the King's army abroad, and finding security to answer any prosecution if called upon at their return. Some of the King's Justices were occasionally empowered to issue these pardons, and to receive the obligations of the criminals, after which they were allowed a small time to prepare for their voyage; they were then assembled by writs issued to the Sheriffs of the different counties, directing them to cause it to be cried throughout their districts that all such as had charters of pardon should repair towards certain seaports, to enter into the pay and service of the King; and, if they did not appear at the respective places, and assemble by a stated time, they incurred the penalty of losing their charters of pardon.—(Grose, *Military Antiquities*.)

A.D. 1448.—The first standing army in modern Europe was established this year by Charles VII. of France, although on a very small scale. He ordered each parish to furnish an archer, and these soldiers were called *franc archers*, because they were exempted from taxes. This little army was raised to restore peace and order at home, not being intended for foreign aggression. Feudal soldiers received no pay, and could not be prevented from plundering,—a practice which, having become inveterate or cus-

tomary, rendered them as licentious in peace as in war. Hence Charles, to leave no pretext for free quarters, levied a tax for the purpose of regularly paying his small standing army.

A.D. 1485.—On the 22nd August of this year the battle of Bosworth was fought, when Henry VII. became King of England. He was crowned upon the 30th of October; “At which day,” says Bacon, “as if the crown upon his head had put peril into his thoughts, he did institute, for the better security of his person, a band of fifty archers, under a captain, to attend him, by the name of Yeomen of his Guard ; and yet, that it might be thought to be rather a matter of dignity, after the imitation of that he had known abroad, than any matter of diffidence appropriate to his own case, he made it to be understood for an ordinance, not temporary, but to hold in succession for ever after.” The body guard was regarded at first as a startling innovation, and excited some jealousy and disgust among the people.

It does not appear that, before this period, the Kings of England had a body guard, or any considerable number of men armed and ready for immediate service in the field. Previously, however, to this reign, a species of troops, chiefly accustomed to the use of artillery, was maintained, and did duty in the principal fortified places either within or without the kingdom, such as Calais, the Tower of London, Portsmouth, the Castle of Dovor, Berwick, Carlisle, and some other small forts ; but it is probable that the chief part of these troops were mercenaries, not immediately raised by the Crown, but provided by contract or indenture by noblemen, as it was usual for men of rank in ancient times to engage to raise and keep up in time of peace the requisite number of men for the defence of particular garrisons. The Yeomen of the Guard of Henry VII. may undoubtedly be considered as the first standing or permanent military force which was hired and paid by the King of England. Queen Elizabeth increased the corps to 140 men, and King James to 200, which it appears never to have exceeded.

When Henry came to the throne, he applied himself to amassing money and increasing the power and splendour of the Crown, and diminishing those of the nobility. Thus by statutes 11th and 19th Henry VII., all those who had any office, fee, or annuity by grant from the Crown, were required to attend the King in person when he went to war, and if they failed, all such grants were to be void. There were certain exceptions, such as spiritual persons (clergy), the Judges and high law officers : these exceptions eventually extended to the Clerk of the King’s Council, to persons above

sixty and under twenty-one years of age, and to cases where the patents mentioned the grant to be for a sum of money. Henry was no less attentive to the diminution of the numbers of the retainers of the great lords, than he was to the enforcing the attendance of those of the Crown. He passed an Act removing all obstacles to the alienation of lands, by which means the power of the nobility was greatly reduced, and feudal military service became, in the course of time, almost obsolete. In 1509, the Honourable Band of Pensioners was established, a corps which is of the same description as the Yeomen of the Guard.

Until the sixteenth century, the military force in France had been generally levied by conscription ; but about the year 1540 another plan was adopted for increasing the army, namely, voluntary enlistment, or enlistment for money : each recruit was to receive a bounty of from three to four livres, or from 2*s. 6d.* to 3*s. 4d.* The poorer classes of the population were at this time in such a state of misery, that a sufficient number of volunteers was rapidly found willing to sacrifice their liberty for the purpose of preserving their lives. Extreme want, says Audouin the historian, verified the maxim, that "*Il faut se faire tuer pour vivre.*" The reputation of the native troops in France seems to have been at a very low ebb during the sixteenth century ; for Brantome, who served in the army under Charles IX. (1560—1574), describes the soldiers as being mostly the refuse of society, men with matted beards, who for their crimes had had their shoulders branded and their ears cut off. In another part of his works, he says, the infantry could not be considered as essentially useful to the security of the state, for it consisted of *boys, rascals, and vagabonds, scoundrels ill-equipped and ill-looking, filchers, plunderers, and devourers of the people.*\*

The salutary enactments of former times, more especially during the reign of Edward III., with regard to the liberty of the subject, became eventually disregarded ; for, during the sway of the house of Tudor, but more particularly during the reigns of Henry VIII. and Elizabeth, the counties were frequently compelled to furnish soldiers, and the assumed prerogative of pressing men for military service, even out of the kingdom, became an established usage. Nay, more, an Act was passed during the

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\* The term Regiment, signifying a body of troops, composed of several companies or "bandes," was first used in France during the reign of Charles IX. The distinction of "Royal," was given to regiments of which the King, the Queen, or some of the branches of the Royal Family were the honorary Colonels.

reign of Philip and Mary, which recognises, as it seems, the right of the Crown to levy men for service in war, and imposes penalties on persons absenting themselves from musters, commanded by the King's authority to be held for that purpose. Many instances might be adduced of the practice of pressing soldiers to serve in Ireland, and elsewhere beyond seas.

The abuses to which this mode of oppression led, are admirably described by Shakspeare, in the first part of King Henry IV., Act iv., Scene 2., where he makes Falstaff describe his mode of raising recruits.

*Falstaff.* \* \* \* \* I have misused the King's press damnably. I have got in exchange of a hundred and fifty soldiers, three hundred and odd pounds. I press me none but good householders, yeomen's sons; inquire me out contracted bachelors, such as had been asked twice at the bans; such a commodity of warm slaves as had as lief hear the devil as a drum.

Men, in fact, from whom he was likely to receive a considerable bribe to obtain their liberty. Falstaff's plan of proceeding is more fully and practically detailed in the second part of King Henry IV., Act iii., Scene 2. And it is much to be feared, that there were many persons who acted as Falstaff did, in all parts of the kingdom. Henry IV. died in 1413.

Thus we see, that the early Kings of England had three distinct means to which they might have recourse, when it was necessary to embody an army for the defence of the realm. 1st, The *posse comitatus*, or whole population from sixteen to sixty, of each shire, under the guidance of the Sheriffs. 2ndly, The quota of men which the holders of knights' fees were bound to furnish. 3rdly, Such hired or mercenary troops as they might think proper, or were able to engage. The *posse comitatus* could not be compelled to leave the kingdom; and only in particular cases were they obliged to leave the shire to which they belonged,—consequently, the King had only his feudal and mercenary troops at command, when he resolved to carry an army to the continent, or when he had to wage war against the Irish or Scotch. The money which was rendered in place of service, contributed to form a revenue applicable to military purposes, such as the enlisting of mercenaries to serve in the army. The King might, to the extent of his revenue, raise an army of this description; but the persons engaged were only called into military service on temporary occasions, and soon reverted to their former occupations.

During the sixteenth century, and for a long time after, the recruiting of the army appears to have depended chiefly upon the

Captains of companies, each Captain recruiting his company, which seems to have been in some measure his own property. When this had been levied to its complete establishment, he was allowed the pay of two soldiers in time of peace, and five during a period of war, to enable him to keep up the numbers, and to preserve its efficiency.

One of the fraudulent practices connected with recruiting during the reign of Edward VI. (1550), may be inferred from the following enactment (2nd and 3rd Edward) :—“ If any Commissioner or Captain, to whom the King shall direct his commission or letters for the levying of any men to serve him, shall, at any time, for any gain, reward, or other lucre, discharge any person by him appointed to serve the King as a soldier, &c., and shall assign any other person in his stead, for any lucre or gain, he shall forfeit for every man so discharged, 20*l.* to the King.”

A.D. 1558.—Queen Elizabeth succeeded to the throne. We learn, from a work entitled *Stratioticos*, &c., by Thomas Digges, Esq., published in 1579, that, in the English army commanded by Dudley Earl of Leicester, which was employed in the Netherlands, and of which Digges was Mustermaster-General, the following was the routine usually adopted when a man enlisted with a Captain.\* The recruit was immediately presented to the Mustermaster, or Commissary of Musters of the Army, and had the following oath administered to him, which was taken by commissioned officers as well as by soldiers :—

I, —, do swear and promise to do all loyal, true, and faithful service unto the Queen of England, Her Most Excellent Majesty, and unto the provinces and cities united in these countries, and their associates, under the charge of the Right Excellent the Earl of Leicester, Governor-General of the said provinces and cities, and their associates, and of Her Majesty’s army and forces within the same ; and all lawful and due obedience unto the said Governor, and to any other superior that shall have charge under him for government in this army. And further, I do promise to endeavour myself to fulfil and keep all such *lawful* ordinances as his Excellency hath or shall set forth and establish for the better ordering of this army, as much as concerns me, so long as I shall serve in the same under him. So help me God by Jesus Christ.

In this attestation a recruit engaged to obey all lawful ordinances, apparently leaving him some liberty to deliberate upon the lawfulness of any order he might receive. The Captain

\* Digges is, so far as I know, the first English author who employs the word regiment. Regiments appear to have been formed in the English army very soon after they were introduced into the French army.

received a certificate that the recruit had been entered in the Mustermaster's roll ; and this certificate entitled the Captain to draw pay for him.

We are informed by Digges that soldiers who enlisted with two Captains at the same time, or who left one Captain and enlisted with another, were liable to the punishment of death.

I have not met with any example of the oath of fidelity having been taken by common soldiers previously to the reign of Queen Elizabeth, but there is every reason to believe that recruits were sworn long before that period. The Romans were very particular in regard to the administration of oaths to soldiers. A Roman recruit underwent four months' probation ; and if after that period he was found fit for the army, he was enrolled in one of the legions. Having been finally approved, he received the military mark, and took the sacrament—an oath. The mark in question was indelibly imprinted upon the hand, probably by branding. The Apostle Paul is supposed to allude to this military custom, Galatians vi., 17.\* The oath, *sacramentum*—from *sacrare*, to devote to—was of a very general and impressive nature. “The soldiers promised implicit obedience to their commanders, and also that they would not desert the service, nor at any time refuse to expose themselves to the utmost peril for the safety and welfare of the State.” The oath of fidelity, or sacrament, taken by the Roman soldiers, as imposed by the Emperor Constantine the Great, was as follows :—

I swear by God, by Christ, and by the Holy Spirit, and by the Majesty of the Emperor, whom I worship, that I will do all things that he commands me, and that I shall never desert his service, nor refuse to die for the Roman commonwealth.

It is supposed the word *sacrament*, in the sense employed by us, “was by the fathers of the Church, in the primitive times, borrowed from the militia, to signify the initiative and holy mysteries of the militant church.”—(*Pallas Armata*.)

Under the Emperors the name of the Prince was inserted in the military oath ; and the sacrament, or oath, used to be renewed every year on their birthday, and on the 1st of January.

A.D. 1641.—There seems to have been much difficulty in procuring the requisite supply of volunteers to recruit the army for service in Ireland, upon the breaking out of the great rebellion in that part of the kingdom ; and hence an Act was passed, which,

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\* “From henceforth let no man trouble me, for I bear in my body the marks of the Lord Jesus.”

after reciting that “by the laws of the realm none of His Majesty’s subjects ought to be impressed or compelled to go out of the country to serve as a soldier in the wars, except in case of necessity or the sudden coming in of strange enemies into the kingdom, or except they be bound by the tenure of their lands or possessions,” enacted, that for service in Ireland it should be lawful, from the 1st of December, 1641, to the 1st of November, 1642, for the Justices, &c. to raise as many men by *impress* for soldiers, gunners, and *chirurgeons*, as might be appointed by His Majesty and both Houses of Parliament.

Many of the men who were levied for service in Ireland were ultimately embodied in the Parliamentary forces employed in England. It is said that during the year 1642 no fewer than 4000 men enlisted in London in one day for the Parliamentary army.

The Royal army, during the great Civil War, consisted chiefly of regiments raised by the nobility who espoused the cause of the King, from among their tenants and dependants; whereas the Parliamentary forces consisted principally of stipendiary troops, recruited in the large towns; but it may be presumed that both parties had recourse to every expedient which promised to be successful to recruit their respective armies. The people called Puritans were mostly on the side of the Parliament, because they found the Bishops, by whom they had been persecuted, on the side of the King. Desiring to live peaceably they remained at home, but were plundered by the King’s soldiers, which induced many of them to abandon their habitations; and when their property was consumed, and their lives in continual danger, they passed over by thousands to the garrisons of the Parliament, and became soldiers. Charles himself assured his followers that they should meet with no enemies but traitors, most of them Brownists, Anabaptists, and Atheists, who desired to destroy both Church and State. To the Ordinance of the Parliament concerning the militia the King opposed his Commissions of Lieutenancy; and the counties obeyed the one or the other, according as they stood affected. In many counties and towns, where the people were divided, mobbish combats and skirmishes ensued.—(*Hume*.)

The forces of the Parliament were at first hardly a match for those of the King, and were repeatedly, if not invariably, defeated. Cromwell soon discovered the cause of their inferiority as soldiers. “Your troops,” said he to Hampden, “are most of them old, decayed serving-men and tapsters, and such kind of fellows; the

King's forces are composed of gentlemen's younger sons and persons of good quality ; and do you think that the mean spirits of such base and low fellows as ours will ever be able to encounter gentlemen that have honour and courage and resolution in them ? — You must get men who have the fear of God before them, and some conscience of what they do,—men of a spirit that is likely to go as far as gentlemen will go,—or else, I am sure, you will be beaten, as you have hitherto been, in every encounter." On this principle Cromwell acted : he began with a troop of horse, enlisting the sons of farmers and freeholders, and incorporating among these all the most zealous fanatics he could find. He soon augmented his troop of horse to a regiment. Thus was formed that iron band which charged with such resistless fury at Marston and Naseby, at Dunbar and Worcester,— "that unconquered and unconquerable soldiery, for discipline and self-government as yet unrivalled upon earth,—to whom, though absolutely free from all the brutal vices that usually disgrace successful soldiers,—religious, sober, temperate,—the dust of the most desperate battle was as the breath of life, and before whom their fiercest and proudest enemies were scattered like chaff before the wind."— (*Westminster Review*, xvi. 518.)

Hume gives a fearful description of the barbarities committed by the King's army, which, although chiefly composed of gentlemen's younger sons, seems to have been extremely licentious. "In the west," he says, "especially where Goring commanded, universal spoil and havoc were committed, and the whole country was laid waste by the rapine of the army." The Scotch contingent of the Parliamentary army, which originally consisted of 18,000 foot, 2000 horse, and above 500 dragoons, appears to have been as oppressive as the malignants, or King's military force. Principal Baillie, in a letter to Lord Lauderdale, dated July 1645, thus addresses his Lordship,— "If you take not a course in the Parliament, that justice may be done on unclean, drunken, blasphemous, plundering officers, noblemen as well as others, we will stink in the nose of this people deservedly." The talented Principal had good opportunities of being intimately acquainted with the conduct of the army of the Covenanters, being preacher to Lord Eglinton's corps, and, as he tells us, carried a sword and a couple of Dutch pistols attached to his saddle. Much difficulty existed in getting recruits from Scotland ; and it is not a little curious to observe the encouragement held out by Principal Baillie to volunteers to join the army. "I believe,"

says he, “ upon the tuck of drum men would be gotten, if it were believed, which is verily the truth, that every soldier will get meat his fill, much more than at home, and for the present some money monthly, and, if God bless but a very little, fair rewards.” Does the learned Principal mean rich plunder?

The ordinary mode of raising troops in Scotland, at this time, was, for Government to impose the levying of a certain number of horse and foot on every shire, in proportion to the valuation of the estates of the heritors and proprietors.

The practice of pressing men for soldiers seems to have become an established usage, inasmuch as we are informed, that when the army was about to be disbanded, in 1649 or 1650, an assurance was given by Parliament that “ no person who had been engaged in the late war should be liable to be pressed for the service beyond sea.” The old soldiers do not appear to have been exempted from compulsory service at home. Principal Baillie states that “ the Parliamentary army consists for the most part of raw inexperienced *pressed* soldiers.”—(*Letters and Journals*, 1645.)

A.D. 1660.—Charles II. was restored, and in the twelfth year of his reign military tenures were abolished in England. The soldiers of the three kingdoms at this time exceeded 60,000 men; and, from the scenes with which they had been long familiar, it was not supposed that they could be retained in a quiescent state. The two Houses were sensible that the reduction of this force was a work which required the utmost caution. Fair words and fair promises were addressed to the military both by the King and the Parliament, and the disbanding of nearly forty regiments was effected without disturbance. A small part of the military force was, however, retained, namely, Monk’s regiment—the Cold-stream, and a regiment of horse. In 1661 the Life Guards were raised, the men being generally gentlemen who had fought in the civil wars; the same year the Oxford Blues were embodied. To these corps were added the 1st Royal Scots; the 2nd, or Queen’s; the 3rd, or Old Buffs, in 1665, so called from their accoutrements being composed of buffalo leather, or, according to other authorities, from the colour of their facings; the Scotch Fusiliers, in 1678, so called from carrying the fusil, invented in France in 1630; and the 4th, or King’s Own, raised in 1680. These regiments formed a force of about 5000 men, and, under the name of Guards, they became the standing army of Great Britain. Charles was of opinion that if his father had possessed a small regular force at the beginning of the Civil War, he

might easily have subdued the Parliament, and this conviction appears to have made him very anxious to keep up a respectable standing army.

The origin of a permanently-embodied military force of any number may be dated from the commencement of this reign. It ought to be stated, however, that Parliament did not sanction the enrolment of the comparatively large army which Charles kept up, nor did it vote the money required for their maintenance. They were embodied by the authority of the Crown only, and were paid either out of the Civil List, or by diverting money voted for other purposes. On the 7th February, 1674, the Commons resolved that the keeping any standing forces, other than the militia, in the nation was a grievance.

At the Restoration there was an Act passed, wherein it is declared, "That all officers and soldiers who were under the command of the Captain-General of the King's forces (but who, by the way, had been for the eighteen years preceding in open rebellion against His Majesty and his Royal father) on the 29th of April, 1660, and had not since deserted the Service or refused to take the oaths of supremacy and allegiance, shall be free to exercise any handicraft or trade, in manner following: such as had been apprentices might exercise such trades as they were bound to, though they served not out their time, with like immunities as if they had, and all other such trade as they were apt and able for in the towns and places within the several counties where they were born; and if implicated or indicted for the same, they might plead the general issue, and should have double costs if a verdict passed against the prosecutor, or if he was nonsuited or the suit discontinued. The privilege of exemption from penalties for exercising trades in corporate towns has been continued to discharged soldiers, their wives, and children, by subsequent Acts of Parliament, to the 56th Geo. III., chap. 67.

Sir James Turner, who wrote his Essays on the Art of War (*Pallas Armata*) in 1670 and 1671, gives the following account of one of the modes of levying troops in his time:—

When Princes and States (says he) impose no necessity on their subjects to rise, but for making up their armies invite, by trumpet and drum, all to take employment whom either the desire of honour, riches, booty, pay, or wages, may encourage to undergo their service, this is that kind of election which now is universally and properly enough called a levy. . . . The Prince or State makes choice of Colonels both for horse and foot, to whom they give commissions or patents to raise regiments of such a number of companies, and to this purpose

they give every Colonel a sum of money, so much for every horseman, every dragoon, and every footman, as they and that Colonel can agree.

As to the duties and qualifications of soldiers, whether of horse and foot, there be some who make so many of them, that if Princes keep none in their service but such as quadrate with all their properties, they will make but very thin musters. But you may make all the duties of a soldier to be three :—1st. To give exact and perfect obedience to all the lawful commands of superiors. 2ndly. To endure the fatigue, travel, and discommodities of war, whether it be in marching, or working at trenches, approaches, and sieges, hunger, thirst, and cold, with an exemplary patience. 3rdly. In time of battle, skirmish, or assault, to resolve either to overcome or die. But, reader, do not you seek all these in every soldier—do not seek any of these exactly in every soldier, no, nor in any soldier, for you will not find them.

The following oath was taken by both officers and soldiers :—

Troopers and soldiers swear, with hands uplifted to heaven, to be faithful and loyal to their Prince or his Generals; never to desert or to leave the service without permission of their superiors; to be stout in time of battle; encounter skirmish or assault; and rather to choose to die than desert their standards or colours; never to turn their backs on the enemy, and to reveal all conspiracies, treasons, and mutinies, intended against the Prince or State, or their Generals and other commanders. So help them God in the great day.—(*Pallas Armata*, p. 198.)

A.D. 1678.—The King issued a proclamation, offering a reward of 20*l.* for the discovery of any officer or soldier who, having taken the oaths, had since been perverted to the Roman Catholic faith; and at the same time an order was issued for displacing and turning out all such officers and soldiers who were Popish recusants.

By a regulation of the 1st January, 1685, it appears that the King's bounty to soldiers for the loss of an eye or limb, or the total loss of the use of a limb, certified by the Surgeon-General, was one year's pay, and other wounds in proportion. The rate of daily pensions to non-commissioned officers and soldiers disabled by reason of wounds, was to be as follows, until they were admitted into Chelsea Hospital, which was then building.

	s. d.		s. d.
Private Soldiers . . . . .	0 5	Corporal of Light Horse . . . . .	1 6
Drummer . . . . .	0 7	Dragoon . . . . .	0 6
Corporal . . . . .	0 7	Corporal of Dragoons . . . . .	0 9
Sergeant . . . . .	0 11	Gunner { Master . . . . .	1 2
First of the { Troops of Guards 1 6 Light Horse . . 1 0		Common . . . . .	0 7

And on the 1st May, 1689, an order was issued by King William, which awarded the same rate of pensions to such soldiers “as have served twenty years, or shall become unfit for service, certified by their officers and commissary.” Since the above rate of pensions was established, the daily pay of soldiers has been rather

more than doubled ; but there has been no corresponding increase in the amount of pension; for by the Warrant of 1689, a soldier who had served twenty years could claim his discharge, and a pension of 5*d.* a day ; whereas, by the present regulations, a soldier has no claim to be discharged, except by indulgence after twenty-five years' service, when he is entitled to a pension of 6*d.* a day.

A.D. 1685.—On the 6th February of this year, James II. succeeded his brother on the throne. He greatly increased the strength of the army, and chiefly with Roman Catholics. Five Irishmen were ordered to be put into each company of the Duke of Berwick's regiment, which then lay at Portsmouth. The Lieut.-Colonel, and five of the Captains, refused to receive them ; but as the order was positive, the Duke of Berwick proceeded to Portsmouth to see it carried into effect, upon which the recusant officers desired leave to lay down their commissions. They were forthwith put in arrest, tried by court-martial, and sentenced to be dismissed from the army, and declared incapable of serving His Majesty.

A.D. 1689.—On the 12th February, William and Mary were crowned King and Queen of England.

The Declaration of Rights to which William and Mary assented, stated, that the raising or keeping a standing army within the kingdom in time of peace, without the consent of Parliament, is against law. Two Scotch regiments, which were quartered in England, declared for King James, and marched for Scotland, but were overtaken and reduced by the Dutch troops. Upon this occasion, King William applied to Parliament for some effectual provision to regulate the discipline of the army. This incident gave rise to a Bill, now become annual, for punishing mutiny and desertion, forming, with the Articles of War, the code of military law at present in force.

The Crown continued to reserve its right to make Articles of War for the better government of the forces, after the passing of the Mutiny Act ; but it was not until the first year of George I. this right of the Crown was formally allowed, and the clause containing it has been repeated in all subsequent Mutiny Acts. The Articles of War being made by the Crown as head of the army, or by the Commander-in-Chief, are to be obeyed, as being the commands of a superior officer ; but there is this difference between them and the Mutiny Act, that the legality of the Articles may itself become the subject of examination in a court-martial, whereas the Mutiny Act must be obeyed without enquiry.

A.D. 1693.—A practice prevailed at this time of pressing landsmen, under the pretence of being for the sea service, by the officers of the fleet, who carried them over to Holland, and sold them to the officers of the army; whereupon the Commons ordered their Speaker to lay the oppression before the King, who ordered that no officer should presume to press landsmen for the future.

On the 16th February, 1682, the Royal Hospital at Chelsea was founded. The construction of the edifice was carried on during the successive reigns of Charles II., James II., and William and Mary, until it was completed about the year 1690. Simon Box, the first invalid who was buried in the ground appropriated to the interment of pensioners, died in the year 1693. The Hospital, together with the outbuildings, gardens, courts, and appurtenances, occupies a space of about thirty-six acres. The alleged purpose for which Chelsea Hospital was constructed, was for the accommodation of “decayed cavaliers” (invalids). About 400 or 430 invalids are usually accommodated in Chelsea Hospital, being about one in 178 or 180 of the whole invalids receiving pensions. I am not aware that the Hospital would accommodate more than the above number; but if I am rightly informed, few invalids apply to become in-pensioners, who have an out-pension amounting to 10*d.* or 1*s.* per day.

The present system of selecting in-pensioners would admit of great improvement. An hospital for invalids ought to be calculated to receive and accommodate those men who have been most severely disabled in the service of their country—a place where persons who are unable to take care of themselves might find a comfortable home. There are many disabled pensioners who have no relations, or none who are willing to take care of them; consequently the result is, that they frequently fall into habits of dissipation, and pass their brief span of life in alternate periods of intoxication and starvation. By the present rules of the Hospital, no man is placed on the list of candidates for becoming an in-pensioner, until he has produced a certificate from a surgeon, “that he is capable of taking care of himself.”

The object of the country, in providing for the accommodation of a few of the men who have been disabled in its service, would be more effectually attained, were a considerable number of the inmates of the Hospital to consist of the most infirm individuals who are on the pension list, and who solicit admission. To take care of this class of in-pensioners, a certain number of comparatively efficient pensioners ought to be admitted, who might be awarded a small weekly remuneration. The pensioners ad-

mitted into the Hôtel des Invalides at Paris, are classed in the following manner, according to their infirmities and ages:—Blind, 154; having lost both legs, 12; having lost one leg, 313; amputated of both arms, 9; of one arm, 226; paralytic, or disabled from pains, 237; epileptic, 12; insane, 31; with silver noses or chins, 8; lame, with feet turned in, or unable to walk, 133; with their feet frozen at Moscow, 28; disabled of the hands, 132; various other wounds, 1027; lay brothers, who seldom go out, and do nothing, 178; admitted as septuagenarians, 516; admitted as upwards of eighty, 37:—Total, 3051. The number of admissions into the Hôtel is, on an average, 200 per annum.

The principles which regulate the admission of pensioners into the Hôtel des Invalides, Paris, and into the Royal Hospital, Chelsea, appear to be the very reverse of each other. In Paris, none but the feeble and the infirm are admitted; whereas, in London, the most disabled class of pensioners are, by the rules, excluded from the Hospital.

Subjoined is a detailed statement of the numbers on the pension list, extracted from the Army Estimates, 18th February, 1839.

*Out-Pensioners of Chelsea Hospital.*

Numbers in 1838-39.	Regulars.	Black Pen- sioners.	St. Helena Regt.	Ordnance.	Yeo- manry.	Totals.	Rate per Day.	For one Day.
2	..	..	2	..	..	2	s. d.	£ s. d
1	..	3	1	..	..	4	0 2½	0 0 5
35	19	..	..	..	14	33	0 3	0 1 0
4,728	2,114	1,097	..	1,363	..	4,574	0 4½	0 13 0 4½
27	..	..	..	24	41	24	0 5½	0 11 0
15,024	13,653	98	..	946	..	14,738	0 6	368 9 0
25	..	..	..	25	..	25	0 6½	0 13 6½
2,167	2,003	18	..	85	..	2,106	0 7	61 8 6
15	..	..	..	14	..	14	0 7½	0 8 9
471	..	450	..	34	..	484	0 8	16 2 8
20	..	..	..	19	..	19	0 8½	0 13 6
13,182	11,732	5	23	1,012	6	12,778	0 9	479 3 6
29	..	..	..	28	..	28	0 9½	1 2 2
1,546	1,489	18	..	61	..	1,568	0 10	65 6 8
21	..	..	..	20	..	20	0 10½	0 17 6
30	12	..	..	28	..	40	0 11	1 16 8
42	14	..	..	26	..	40	0 11½	1 18 4
2	..	..	..	2	..	2	0 11½	0 1 11½
18,157	15,093	17	50	2,430	1	17,591	1 0	879 11 0
22,369	19,424	3	1	3,388	..	22,816	*	1,551 7 8
1,439	1,214	2	6	243	..	1,465	{ Between 2s. and 3s. 6d. }	162 6 0
79,332	66,767	1,711	83	9,748	62	78,371		3,687 18 8½

Which for 366 days is £1,349,783. 19s. 7½d.

\* At various rates between 1s. and 2s. a day, in consideration of being totally disabled, by blindness or otherwise, or of having been more than twenty-one years in the infantry, or twenty-four in the cavalry.

An Act, recently passed, recites that great frauds have been practised upon pensioners who have made assignments of their pensions to other persons than the overseers of the poor, and enacts, that if any person shall assign his pension to any persons, except the guardians for parochial relief granted by them, it shall be lawful for the Lords Commissioners to take away or suspend such pension. And if any person shall procure a pensioner to make an assignment, except as aforesaid, or shall receive payment for money or goods advanced to such pensioner upon any such pension so assigned, such person shall be guilty of misdemeanour, and be liable to fine or imprisonment. The act also empowers the guardians to attach pensions in support of the wife, children, or parents of a pensioner, if he desert them, and they become chargeable to the parish.

Previously to 1754 the pensioners received their pensions annually in arrear, but after that date they were paid every six months in advance, subject to a deduction of five per cent., to cover the interest and loss by death. Since 1815, they have been paid quarterly, subject to the same deduction.

A.D. 1702.—Anne came to the throne, and war was declared against France and Spain.

A.D. 1704.—During this year a Bill was brought into Parliament, for the purpose of recruiting the army by forced conscription of men from each parish, but was unanimously rejected, in consequence, as alleged, of being “a copy of what was practised in France and other despotic countries,” and unconstitutional.—(Boyer’s *Reign of Queen Anne*, p. 123.)

The Commons passed an Act in the same session, viz. 1704, which was frequently renewed, and which seems to have been still more despotic than the plan for recruiting in France, empowering Justices of the Peace to *impress*, for the land service, such men as were not entitled to vote for Members of Parliament; that is, the Justices of the Peace, or any three of them, might take up such able-bodied men as they were pleased to decide had no lawful calling or means of subsistence, and deliver them to the officers of the army. Pressed men were to receive 1*l.* each, volunteers, 4*l.*; constables, or parish officers, were to receive a reward of 1*l.* for every man they pressed. By the Bill it was enacted, that “all soldiers that shall desert, either in the field, upon a march, in quarters or in garrison, shall die for it.” “Soldiers to be deemed deserters, who shall be found a mile from their garrison or camp without leave.” Persons enrolled might by this Act claim their

discharge from the army after three years' service ; no man to be pressed under five feet five inches.

Burnet (*History of His Own Times*) thought this an excellent plan of recruiting the army :—“If well managed,” he says, “it will prove of great advantage to the nation, since, by this means, it will be delivered from many vicious and idle persons, who are become a burden to their country.” He did not see, or at any rate did not advert to, the dangerous impropriety of authorising three country gentlemen to deprive an Englishman of his liberty—a right which, according to the constitution, could not be taken away but for some specified crime and by a legal judgment. The House of Lords did not extend their opposition to the principle of the measure ; they seem merely to have objected to the great power lodged in country Justices of the Peace, chiefly because the magistrates had been put in commission by their political adversaries.

This Act (3rd and 4th Anne) was renewed from year to year during the war, and eventually it was enacted that *felons* might be enrolled as soldiers. It does not appear that felons were enrolled in the Russian army until a few years ago—about 132 years after that mode of recruiting the British army was sanctioned by Act of Parliament. Pursuant to an Ukase, dated 3rd November, 1836, and promulgated as a law in Russia, “all criminals, who previously to that date would have been sent to Siberia, have since then, if under thirty-five years of age, been enrolled in the ranks of the army.” “The soldiers of no other country,” says the editor of a periodical, “would endure such an insult.” I presume he was not aware, when he wrote, that men, under the character of vagrants and delinquents, were legally *pressed* for the army in this country as late as 1779 ; and that, during great part of the last war, the hulks and gaols were occasionally emptied to fill the ranks of corps intended for foreign service.

Burnet says, the Vagrant Act had “a very good effect ; only a visible remissness appears in some Justices who are secretly influenced by men of evil designs.” The “men of evil designs” were, I presume, political adversaries, who discouraged the unconstitutional measure of depriving men of their liberty without being convicted of crimes. Burnet’s zeal in favour of the measures of the Government seems not to have been repressed by a sense of justice : his Whig principles did not comprehend true liberty—the enjoyment in security of our lives, our persons, and our pro-

perty. One of the biographers of Burke remarks, that his mental organization was such that he could not help seeing that conduct to be just which accorded with his interest or taste. Bishop Burnet seems to have had a similar mental organization; for he appears to have been one of those zealous political partisans who can "call evil good, and good evil," when a measure, however oppressive or unjust, promotes the object of his party. The Bishop adds, that the methods hitherto adopted for recruiting the army, "by drinking and other bad practices, as they were justly odious, so that they were now so well known that they were no more of any effect;" by which means, he says "the army could not be recruited but by the help of this Act:" in other words, one mode of injustice having been found ineffectual in procuring recruits, it became expedient to adopt another of a still more unjustifiable nature.

The practical mode of carrying this Act into operation, may be inferred from some passages in Farquhar's play of the Recruiting Officer, which was acted shortly after the Bill passed:—

Act ii.—Scene 3.

*Enter KITE, with two Recruits, drunk.*

*Kite.* You are a King—you are an Emperor—and I am a Prince.

*Thomas.* No, Serjeant, I'll be no Emperor.

*Kite.* No!

*Thomas.* I'll be a Justice of Peace, man—ay, wounz, will I! for, since this Pressing Act, they are greater than any Emperor under the sun.

Act v.—Scene 4.

*A Court of Justice. BALANCE, SCALE, and SCRUPLE upon the Bench.*

CONSTABLE, KITE, MOB.

*Balance.* What are you, friend?

*Mob.* A collier.—I work in the coal-pits.

*Scruple.* Look'e, gentlemen,—this fellow has a trade, and the Act of Parliament here expresses that we are to impress no man that has any visible means of livelihood.

*Kite.* May it please your Worship, this man has no visible means of livelihood, for he works under ground.

*Balance.* Right!—bring in the rest.

*Constable.* There are no more, an't please your Honour.

*Balance.* There were five, two hours ago.

*Sylvia.* 'Tis true, sir; but the rogue of a constable let the rest escape for a bribe of *eleven* shillings a man; because he said the Act allowed him but *ten*, so the odd shilling was clear gain.

A.D. 1711.—An Act was passed which contained the following clause—"No seaman nor seafaring man can be listed as a land soldier;" and in practice this continues to be obeyed.

The levying of the requisite number of troops during this reign was obviously attended with much difficulty; and a similar difficulty will likely occur whenever labour is abundant, and no great temptation is held out to enlist. The celebrated Defoe, who published a pamphlet connected with the subject of the poor in the reign of Queen Anne, maintained that there was in England “more labour than hands to perform it; and consequently a want of people, not of employment. The pamphlet, which was in the form of an address to the House of Commons, contains the following passage:—

I humbly desire this Honorable House to consider the difficulty of raising soldiers in this kingdom; the vast charge that the kingdom is at to the officers to procure men; the many little and not over-honest methods made use of to bring them into the Service; and the laws made to compel them. Why are gaols rummaged for malefactors, and the Mint and prisons for debtors? The war is an employment of honour, and suffers some scandal in having men taken from the gallows, and immediately, from villains and housebreakers, made gentlemen soldiers. If men wanted employment, and consequently bread, this would never be. Any man would carry a musket rather than starve, and wear the Queen’s cloth, or anybody’s cloth, rather than go naked, and live in rags and want. It is plain the nation is full of people, and it is as plain our people have no particular aversion to the war, but they are not poor enough to go abroad. It is poverty makes men soldiers, and drives crowds into the armies; and the difficulty to get Englishmen to list is because they live in plenty and ease; and he that can earn 20s. a week, at an easy, steady employment, must be drunk, or mad, when he lists for a soldier to be knocked o’ the head for 3s. 6d. a week. But if there was no work to be had,—if the poor wanted employment,—if they had not bread to eat, nor knew not how to earn it,—thousands of young lusty fellows would fly to the pike and musket, and choose to die like men in the face of the enemy, rather than lie at home, starve, perish, in poverty and distress.

Defoe, who describes everything from life, assumed that indigence and unhappiness fill the ranks of the army; and in this conclusion he is certainly not far wrong, these circumstances having greatly facilitated the recruiting of a military force from the earliest to the most recent times. When David took the field against Saul, “every one that was in distress, and every one that was in debt, and every one that was discontented, gathered themselves unto him, and went out with him.”—(1 Samuel xxii., 2.) Misery and discontent ever have been, and perhaps ever will be, the chief causes of men volunteering to serve as soldiers in this country, unless the emoluments of a soldier, including pay and pension, be rendered more nearly equal to that of an artisan than they are at present.

Captains of companies, it appears, were in the practice of enlisting men, and afterwards giving them a discharge for a consideration, which occasioned a clause to be inserted in the annual Mutiny Act (10th Anne), prohibiting any listed soldier, during his abode in Britain, being discharged from the service without consent of the Colonel, or Field Officer commanding in his absence, in writing, under pain of cashiering to the officer, and the soldier to be held as a deserter.

Bruce (*Institutions of Military Law*, 1717) informs us, that prisoners of war "do not become slaves to such as take them captives, but, upon payment of their ransom,—which, for a private soldier, is generally a month's pay,—are allowed to return." Soldiers taken at sea were not ransomed on these terms, being usually detained as prisoners during the war.

Men learned slowly that it was more advantageous to retain their captives or to sell them, than to kill them, and consequently, by the laws of war in many ancient nations, the adult male prisoners were all maimed or destroyed, sometimes after exercising great cruelties upon them. In some instances the maiming was effected by chopping off the thumbs and great toes.—(Judges i., 6, 7.) After the battle of Agincourt (1415), 14,000 prisoners were butchered. The prisoners taken by the Romans were made slaves. About 16,000 to 17,000 prisoners taken at the battles of Dunbar and Worcester (1650 and 1651) were sold as slaves to the plantations. In the indentures of military service in the middle ages it was a usual stipulation, that while the ransom of persons of inferior condition taken in war was allowed to those by whom they were captured, the ransom for persons of rank belonged to the King.

Sir James Turner says—"When prisoners of war have got fair quarter promised them and honestly kept, what shall be done with them? Assuredly they must be either enslaved, exchanged, or ransomed. . . . The ransom (redemption) of a prisoner belongs to him who took him, unless he be a person of very eminent quality, and then the Princes, the State, or their General, seizeth on him, giving some gratuity to those who took him. The price of the ransom useth to be estimated according to his pleasure who keeps the prisoner, but because many times they are extravagant in their demands, an agreement is frequently made between the two parties who make the war, and of a certain price to be paid by officers and common soldiers for their ransoms, according to their quality; and this seldom exceeds one month's

pay for any under the degree of Colonel ; and this is *exceeding comfortable* to prisoners when they know how much themselves or their friends have to pay for their liberty." In modern practice prisoners are sometimes exchanged, but more generally are detained till the conclusion of the war.

The principal emoluments of soldiers in early times appear to have been the ransom of prisoners, and plunder ; and very elaborate regulations were made to ensure a legitimate distribution of this booty. It was expressly provided, in the Articles of War, for the forces beyond seas, during the reign of Queen Anne,—“ 1st, That when it shall please God that Her Majesty's forces shall beat the enemy, every man shall follow his officer in the chase, but who-soever shall presume to pillage or plunder till the enemy be entirely beaten, he shall suffer death, or such other punishment as shall be pronounced against him by a general court-martial, and the pillage so gotten shall be forfeited to the use of the sick and maimed soldiers. 2ndly, In what place soever it shall please God that the enemy shall be overcome, all the ordnance, ammunition, and victuals that shall be there found, shall be secured for Her Majesty's use, and for the better relief of the army ; and one-tenth part of the spoil shall be laid apart towards the relief of the sick and maimed soldiers.” The practice of giving a portion of the spoil to the maimed soldiers of an army is very ancient.—(2 Maccabees viii., 28.)

There is still some appearance on the military statute book of provision for the sick being derived from the misconduct of soldiers. By the present Articles of War, every soldier who does not regularly attend Divine Service and sermon, when ordered to do so, shall forfeit for the first offence twelvepence, and the money so forfeited is to be applied to the use of the sick soldiers of the troop or company to which the offender belongs.

A.D. 1713.—When the Peace of Utrecht was concluded, the soldiers who enlisted according to the terms of the Act of 1704 were entitled to their discharge after a service of three years. Enlistment for an unlimited period appears, however, to have been the common rule, both before and after the reign of Queen Anne. “ There is,” says Bruce, “ no other time prefixed for a soldier's service than the end of the war ; and therefore few get their discharge except in cases of age, infirmity, disability by wounds, lingering diseases, &c. ;” that is to say, when it suited the convenience or views of Government, or when a man was unfit for the duties of a soldier.

Soldiers were secure against all commitment for civil debts during war, an immunity which was occasionally continued for some time after. Thus, by Act of Parliament, after the conclusion of the Peace at Utrecht, the persons and goods of such as had been soldiers during that war were declared free from arrest for three years. By the same Act disbanded soldiers were allowed to set up any trade within any burgh, except within the precincts of the two Universities.

A.D. 1714.—George I. ascended the throne.

A.D. 1716.—Great fears appear to have been entertained lest Roman Catholics should enlist in the army, for in this year a Bill was passed, by one of the clauses of which any Roman Catholic “who shall not at the time of his enlisting declare to the officer or soldier who enlisteth him that he hath been, or at present is, of the Popish religion, he shall be liable to, and receive such corporal punishment, not extending to loss of life, as shall be inflicted by a court-martial.”

A.D. 1717.—According to Bruce, there was very little ceremony required or used in the enlisting of soldiers about the commencement of the last century. “Now,” says he, “a man taken from the plough, so soon as he has received earnest, and is duly attested by a magistrate, is thenceforth looked upon as a soldier, and is subjected (after reading the Articles of War to him) to the severity of martial discipline.”

In all northern nations, shaking of hands was held necessary to bind a verbal contract; and a sale or bargain thus made was called *hand-sale*; but, in process of time, a small sum of money, *earnest money* (a bargain penny) was given and received as a pledge that the parties were in earnest, in addition to the hand-shaking form of sealing a bargain. Earnest has become, in modern times, enlisting money, when a man engages to be a soldier.

The oath enjoined by the Articles of War, during the reign of Queen Anne, was as follows :—

I swear to be true to our Sovereign Queen Anne, and to serve her honestly and faithfully, in the defence of her person, crown, and dignity, against all her enemies and opposers whatsoever, and to observe or obey Her Majesty's orders, and the orders of the Generals and officers set over me by Her Majesty. So help me God.

This oath was directed to be “taken by all officers and soldiers, of what quality soever.” Pressed men were adjudged (condemned) to be soldiers by a magistrate, and it does not appear that the ceremony of swearing was forced upon them. The Articles of

War awarded the doom of death upon every soldier, whether he were a volunteer or a pressed man, who deserted.

Bruce recommends that an army should not be "altogether pressed, nor altogether volunteers," and approves of "a middle way, viz., neither too forcible on the one hand, nor too frank on the other." "We, in this island," he says, "do indeed compel, yet not all promiscuously, but only idle vagabonds, and such as have no employment, or are guilty of smaller crimes. But as to voluntary listing, Captains and other officers do commonly receive warrants to beat up drums in every city, whereby all are invited to list themselves under pay, which whosoever doth, he is, after receiving earnest, solemnly attested by a magistrate, and is thenceforth looked upon as a soldier." Bruce never takes into consideration the natural rights or the feelings of individuals, or, if he does, he considers them of no importance when weighed in the scale of public expediency. He says, a method of recruiting an army, which is "tempered betwixt *fair* and *foul* means, can scarce ever make a Government run the hazards of *discontents*, far less of *mutinies* and *disorders*." The italics are not mine; I confess that I do not comprehend how recruiting an army in part by *foul* means, namely, by forcing men to become soldiers, should operate in preventing discontents.

The moral character of the armies in Europe during the early part of the last century, is thus described by Bruce:—"We are not now scrupulous," says he, "in admitting unfit persons to be soldiers; for instance, if all infamous persons, and such as have committed capital crimes, heretics, atheists, and all dastardly and effeminate men, if all these, I say, were weeded out of the armies that are at present on foot in Europe, it's much to be feared that most of them would be reduced to a pretty moderate number. The greater part of the soldiery being men," says he, "of so ignoble disingenuous tempers, that they cannot be made obedient by the allurements of rewards, nay, coercion being, generally speaking, the surest principle of all vulgar obedience; there is, therefore, another part of military institution fitted to such men's capacities, and these are the various punishments awarded to their crimes, which, as goads, may *drive* those brutish creatures who will not be *attracted*."

It will readily be conceived that an army, which was more or less recruited by felons and pressed vagrants, must have ranked very low in the scale of morality, and required to be kept under very strict discipline; and it may be inferred, from the harsh,

inhuman manner in which Bruce speaks of the men, and also from the usages of the army at the time, that the penal mode of reformation was not spared. But it ought to be recollect ed that excessive punishments are apt to render men desperate, and to lead to more dangerous crimes than those they are intended to prevent, and consequently I do not suppose that the army was materially improved by the violent coercive measures employed.

A.D. 1727.—George II. succeeded to the throne.

A.D. 1729.—A misunderstanding happened between the Courts of Great Britain and Prussia, on account of the Prussians *pressing* some Hanoverians into their military service, and the Hanoverians seizing some Prussian officers and soldiers by way of reprisal. This fact is chiefly of importance, inasmuch as it shews the barbarous practices of Governments, and their disregard of the rights of individuals at that time even in civilised Europe.

A.D. 1732.—The question of a standing army was always a bone of contention between King William and his Parliament. To keep up a permanent body of men devoted to war as a profession, was esteemed by all parties an important, if not a somewhat perilous innovation. Blackstone maintains, that “nothing ought to be more guarded against in a free state, than making the military power, when such a force is necessary to be kept on foot, a body too distinct from the people.” Similar objections against a standing army were urged in Parliament, by Mr. Pulteney, in 1732. “ Soldiers are,” says he, “ a body of men distinct from the body of the people ; they are governed by different laws ; blind obedience, and an entire submission to the orders of their Commanding Officer, is their only principle. . . . . It is, indeed, impossible that the liberties of the people can be preserved in any country where a numerous standing army is kept up.” Mr. Pulteney is correct in what he here stated, in regard to the self-denial and obedience of soldiers ; but the force of circumstances, and the march of events, have determined the question as to the existence of a standing army. It may be observed, that in early times every freeman had the education of a soldier ; but now, military knowledge is confined to a class, and none but those who make it a profession know anything of it. The citizen soldier of former times did not completely throw off his armour, and merge into the quiet and industrious craftsman, until the reign of Queen Anne, or about 1710.

A.D. 1735.—Our countrymen appear to have suffered from violent and oppressive measures for the recruiting of the army, in

France, as well as in Great Britain. An edict was published at Paris, in this year, requiring all the English, Scotch, and Irish, in that kingdom, who were in no employment, from the age of eighteen to fifty, whether they had or had not been formerly in the Irish regiments in the French service, to enlist in some of these regiments in fifteen days, on pain to such as have already served, of being treated as deserters, and the rest as vagabonds, and of being sent to the galleys.

The English Ambassador, Lord Waldegrave, presented a memorial against the edict, not because it was unjust or oppressive to individuals, but on account of his thinking it ungrateful to this country, that British subjects should be worse treated than any other nation, although it had suffered the house of Bourbon to wrest the Spanish dominions in Italy from the Emperor.

A.D. 1739.—War with Spain was declared, and war with France soon followed.

A.D. 1741-42 (27th January).—A motion was made in the House of Lords, in regard to the garrison of Minorca, in consequence of a number of the men having maimed themselves, and others having committed suicide, and only four officers being present out of nineteen belonging to the garrison. During the debate on that occasion, Lord Chesterfield expressed himself in the following terms:—"The noble Lord knows that a remedy for these evils has been proposed in Parliament, namely, that of giving every soldier a liberty, under proper restrictions, to draw his own discharge, after a certain number of years' service. This would prevent the cruel effects of that despair which soldiers are often driven to, by being tied for life. This is really a most terrible hardship, and a hardship which is a scandal upon our Government. We boast, my Lords, in this country, of our being freemen, and reproach the French with their being slaves; but I will say, that while this hardship remains, an English soldier is much more a slave than any soldier in France can be, or ever is made; and I think it a most preposterous regulation in a free country, to make slaves of those who are to defend the liberties of their country."

A.D. 1743.—The army, it would appear, was very unpopular at this time. In the spring of this year, a number of regiments were sent to Flanders, and among others, Lord Semple's Highland regiment. This corps was reviewed on Finchley Common, the 14th May; and on the 17th, in the night, about 150 of the men deserted in a body, with their arms. They were all eventually

taken, and sent to the Tower of London ; three of them were shot, and the remainder sent to foreign garrisons, or the plantations, namely, thirty for Gibraltar, twenty for Minorca, twenty for the Leeward Islands, twenty-eight for Jamaica, and thirty-eight for Georgia.

A.D. 1744.—During this year an Act was passed “for the more speedy and effectual recruiting His Majesty’s land forces and marines,” which was chiefly a renewal of the Act of 1704—“a law which,” says Smollett, “threw into the hands of many worthless magistrates an additional power of oppressing their fellow creatures.” Justices of the Peace, Commissioners of the Land-tax, and Magistrates of corporations and boroughs, were appointed to carry this Act into execution. They were empowered to press as soldiers “such able-bodied men as do not follow or exercise any lawful calling or employment, or have not some other lawful and sufficient support and maintenance.” Minimum height of the men, five feet five inches. Volunteers to receive a bounty of 4*l.*. Churchwardens and constables to be employed in searching for, and in securing able-bodied men : and to receive a reward of 1*l.* for every man they pressed, and 6*d.* for every day they kept a man in confinement ; to forfeit 10*l.* for every wilful neglect in securing a man, one moiety of the penalty to be paid to the informer. None to be exempted from the operation of this Act, but persons who have a vote for a Member of Parliament, and labourers during hay and corn harvest.

The Commissioners appointed are to be the ultimate judges whether any man brought before them ought to be *pressed* into His Majesty’s service, it being expressly provided, that no person so listed, that is to say, so adjudged or condemned, by them, shall be taken out of His Majesty’s service by any process other than for some criminal matter.

Articles of War against mutiny and desertion, to be read to the pressed men ; after which, every man so raised to be deemed an enlisted soldier, and subject to the discipline of war.

Men raised by this Act, may claim and receive their discharge after three years’ service ; and the Colonels of regiments are required to give the same in writing, *gratis*.

Justices of the Peace, &c., and churchwardens, are not to be liable to penalties for carrying the Act into execution ; and the Commissioners to have the power of finally approving of the recruits obtained, either by pressing them, or by accepting the services of volunteers.

This Act was renewed in 1745, with the following alterations:—No person to be pressed, but “able-bodied men, free from *ruptures* and every other distemper or infirmity, that may render them unfit for duty.” (They are not, however to be *Papists*, *Irishmen*, nor under seventeen years of age, or above forty-five.) Minimum height, five feet four inches. Volunteers not to receive any bounty. Men raised by this Act may receive their discharge after serving five years. The men to be finally approved by a Field Officer of the regiment to which they are assigned.

The practical operation of the Act of 1744, is thus described in the *Gentleman's Magazine*, vol. xiv., April 20, 1744:—“A general press began for recruiting His Majesty's regiments and manning the fleet, when upwards of 1000 men were secured in the several jails of London and Westminster, being allowed 6d. a head per diem, by the Commissioners of the Land-tax, who *examine them*, and send those away that are found fit for His Majesty's service. The same method was taken in each county.”

So long as *pressing* men was authorised and sanctioned by the Legislature, the provincial magistrates suffered themselves occasionally to commit acts of great oppression under colour of the law. In 1744, the Vicar of Burstable thought it justifiable to rid the parish of a man who preached with more zeal and more effect than himself, and readily lent his assistance to have him pressed as a soldier. The man was brought before the Commissioners at Halifax, (where the Vicar was upon the bench), who refused to hear him plead his cause, saying, “We have already heard enough of you from the minister of the parish.” “So, gentlemen,” said Nelson, the name of the preacher, “I see there is neither law nor justice for a man that is called a Methodist;” and addressing the Vicar by his name, he said, “What do you know of me that is evil? whom have I defrauded? or where have I contracted a debt I cannot pay?” “*You have no visible means of getting your living,*” was the reply. He was forthwith marched off to Bradford, and confined in a dungeon, where there was not even a stone to sit upon.—(*Life and Times of the Countess of Huntingdon*, vol. i., p. 255.)

The Act of 1745 is the first public or official document I have met with, that assigns *rupture* as a disqualifying disability for the army; although it does not appear that either a medical officer or a medical practitioner was required to give his opinion in regard to the existence of that alleged disability in a man, or

indeed in regard to any other “distemper or infirmity” which might unfit a recruit for military duty.

Civil liberty and national morality appear to have been at a very low ebb at this time, when so much injustice could be committed under the sanction of law. The immoralities of a Government have a powerful influence in suppressing the monitions of conscience, and tend to keep down the morality of a whole people.

At this time, while the agents of Government were busily employed pressing men, and forcing them to be soldiers, certain individuals calling themselves merchants, were actively engaged in a partial kind of slave trade in this country. One instance may be quoted ; and from the legal investigation which took place in the case, the existence of the nefarious trade was amply verified ; and there is too much reason to believe that this species of villainy was not confined to one corner of the kingdom.

About 1740, some individuals in Aberdeen were engaged in the trade of kidnapping such young men as they could entice or compel to go to the plantations in Virginia ; and though many were thus decoyed or forced away from their friends, it continued for some years little regarded ; and a house in the Green is spoken of as having been used for confining those who were refractory, until they could be shipped off. Several of the principal citizens appear to have been concerned in this villainy ; and it was not until one of their victims, Peter Williamson, unexpectedly reappeared in Aberdeen, in 1758, (for the measures taken to prevent their return, or communicating with their friends, were generally successful,) that any check was given to it. He had written a pamphlet, giving an account of the manner in which he had been kidnapped, and of the hardships he had sustained, and this he sold in Aberdeen on his return. For this alleged *LIBEL* he was summoned before the Baillies, and was fined 10*s.*, ordered to beg pardon of the magistrates, and thereafter to be banished from the town ; and the obnoxious parts of his book were torn out, and burnt at the Cross by the hangman. Williamson afterwards went to Edinburgh, where, meeting with benevolent persons to espouse his cause, he raised an action against the magistrates, which was determined by these worthies being sentenced to pay him 100*l.*, with all the expenses of the suit.—(*Statistical Account of Aberdeen, and Life of Peter Williamson.*) Peter Williamson afterwards established the penny post in Edinburgh, and published the first Annual Directory of that city.

Kidnapping, namely, the stealing or decoying and conveying away of a man, woman, or child, is an offence at common law, punishable by fine and imprisonment; but how often has this law been violated with impunity both by Governments and by individuals!! Cromwell, desirous of increasing the population and prosperity of the West Indian colonies, ordered all females of disorderly lives to be arrested and shipped for Barbadoes. He had on a former occasion, for similar purposes, forcibly taken up 1000 young girls in Ireland, and sent them to Jamaica. By the Jewish law, "men-stealers" were punished with death (*Exod. xxi., 16; Deut. xxiv., 7*)—texts which Cromwell does not appear to have referred to in his Scriptural researches. This practice was also forbidden both by the Greeks and the Romans.

While oppressive statutes are enacted and practically enforced, it is in vain to preach truth, justice, and benevolence to the people from the pulpit. As example is the most powerful means of instruction, national measures should obviously be calculated to administer impartial justice, and to promote the kindly affections among all classes of the population. The officers of the Cold-stream Guards would not admit either Scotch or Irish recruits into the regiment at this time. Vagabonds and Papists were also rejected.

A.D. 1746.—An Act which had been passed in 1724, for the "more effectual disarming the Highlands," and for the better securing the peace and quiet of Scotland, was amended in this year; by which it was enacted, that any person convicted of wearing arms, after having been summoned by the Lord Lieutenant of the county to deliver them up, should be liable, if "judged fit to serve as a soldier" by the Justices of Peace before whom he was convicted, to be transferred to the military authorities, and sent to serve in any of His Majesty's forces in America. After having the Articles of War read to him, he was "to be deemed a listed soldier, to all intents and purposes," and to be subject to military discipline. Persons concealing arms were liable to a fine of 100*l.*, and if unable to pay, were to be treated in the same manner.

In 1748, the "listing" clause was extended to all persons, not landed proprietors or their sons, convicted of wearing the Highland dress. These Acts were renewed for seven years in 1753, but were allowed to expire in 1760.

It was probably considered not an inappropriate punishment for illegally carrying arms, and endangering the peace of their

native land, to compel the offenders to bear arms in its defence in foreign climes.

A.D. 1747.—Military tenures were abolished in Scotland, by which means the feudal power of the chiefs over the labouring classes was legally abrogated. From this period, the power of the nobility to call out what number of men they pleased to join the army gradually declined.

A.D. 1748.—The Peace of Aix-la-Chapelle was concluded. The Acts of 1744 and 1745, relative to the enlistment of soldiers, being temporary measures, the usual mode of enlistment, namely, unlimited service in regard to time, or for life, continued.

A.D. 1749.—A Bill was brought into Parliament, “for limiting respective times at, and conditions upon, which every non-commissioned officer or soldier now, or who may hereafter be such, in His Majesty’s land service, shall be entitled to be discharged from the said service.” This Bill, which was prepared by Thomas Pitt, Esq., Lord Baltimore, and Mr. Sydenham, after being committed and engrossed, was read a third time. A motion being made that the Bill do pass, it passed in the negative, according to one authority; but Smollett says, that after being twice read, it was postponed from time to time till the Parliament was prorogued, and never appeared in the sequel.

We learn, from the discussion which took place upon this Bill in the House of Commons, that the framers of it proposed *that every soldier might claim his discharge after a service of ten years, upon paying 3l.* Smollett states, in regard to this Bill, that the scheme which patriotism conceived was, in all probability, adopted by party, and, I may add, perhaps it was rejected for a similar cause.

Lord Barrington, the Secretary at War, opposed the Bill. He said, that as it was idleness, extravagance, and dissoluteness that filled the ranks of the army, to discharge men, if they pleased, after ten years’ service, would be to fill the country with a number of idle and dangerous vagabonds. In other words, Lord Barrington maintained that the army was composed of the very worst materials, and its constituent principle was of such a nature as to prevent an infusion of better; and from these premises deduced the necessity of preserving in full force and vigour the very system which excluded all improvement.

Mr. Thomas Pitt spoke in favour of the Bill. He said, the liberty of the subject extended unalterably to all; that no man could renounce it, even by his own act and deed. “I must look,”

says he, “ upon our soldiers as *slaves*; for every man who is bound as a servant for life is a *slave* of his master.” Lord Strange expressed himself, perhaps, still more strongly against the unlimited servitude of soldiers. “ Were the Roman *servi venundati* less slaves,” says he, “ than the *servi nati* or *bello capti*? Yet the *venundati*, or those who sold themselves, always did so willingly.”

To be irrevocably fixed to any employment by an obligation which has been contracted either from folly or misery, is an idea which is highly repulsive and galling to a considerate mind, and there is certainly nothing in a military life which is calculated to make it an exception to the common consequences of interminable engagements.

The passage in the Mutiny Act which permits a recruit to obtain a relief from enlistment within four days, was first added in 1735; but the clause which prevented his being attested sooner than twenty-four hours after enlistment, was not inserted before 1749 or 1750.

Honest dealing in the recruiting of an army appears to have been little attended to in these times, either in this country or on the continent. Marshal Saxe, in his *Reveries on War*, thus describes the mode by which recruits were sometimes levied in his time:—“ They slip a piece of money into a man’s pocket, and then tell him he is a soldier. Enlisting by force,” he adds, “ is still more odious. It is a public calamity from which the citizen has no means of saving himself but by money, and it is considered the worst of all the resources of Government.” When Governments enact oppressive laws, the administrators may be expected to disregard every principle of justice, and to exercise cruelty and fraud without remorse.

Until about the year 1747 the soldiers of the French army had no other mode of disposing of their clothes, and other articles of equipment, but stuffing them into a canvas bag. Count d’Argenson, then Minister at War, directed that each man should be furnished with a *havresac*, which was to be made of the skins of dogs or goats, with the hair outwards, for the purpose of protecting the contents from rain. The goat-skin *havresac* is still in use in the French army. It is very probable that this improvement was adopted from the Germans, the word *havresac* being derived from the German verb *haben* to have, and *sac* a bag. Under the name of *knapsack* the soldiers of the British army had for many years a goat-skin bag, in which to carry their clothes, &c., and, in all

likelihood, it was adopted from the French, whence we have derived almost all our military terms, and many of our regulations for the discipline of troops. The modern painted canvas knapsack is a great improvement, and one which has contributed greatly to the comfort of soldiers, not only in protecting their clothes from rain, but also in enabling them to carry with comparative ease their arms and equipment, the weight of which, on an average, amounts to about sixty pounds.

With the view of ascertaining the weight usually borne by a soldier, namely, the equipment, arms, provisions, and ammunition, which he carries in full marching order, the different items carried in six regiments were weighed, with the following result:—

	lbs. oz.		lbs. oz.
No. 1 . . .	65 8		No. 4 . . .
2 . . .	58 1		5 . . . 61 14
3 . . .	64 2		6 . . . 62 12

Captain Stedman, who belonged to the Royalist army during the War of the Revolution in America, informs us that the troops who attacked the Americans posted on Bunker's Hill performed that duty “in the middle of a hot summer's day, encumbered with three days' provisions, their knapsacks on their backs, which, together with cartouch-box, ammunition, and firelock, may be estimated at 125 lbs. weight.” Captain Stedman must, I think, have greatly over-estimated the amount of the weight carried by the King's troops on this occasion.

A.D. 1752.—A Bill passed the Commons this year, without opposition, which was designed to soften the severity of military law: but it was thrown out in the Lords, who could discover nothing wrong even in the Mutiny Bill, which was marked all over with the sanguinary genius of the Duke of Cumberland. The severities in the Mutiny Bill, where, as Horace Walpole expresses it, “the penalty of death came over as often as the curses in the Commination Act on Ash Wednesday,” were generally attributed to the Duke.

A.D. 1756.—War was declared against France. This is usually called “The Seven Years' War.” A Bill was this year passed, and renewed in 1757, for the more easy and better recruiting of His Majesty's land forces, differing in no very material enactment from that which was passed in 1745.

In carrying this Act (1756) into execution, the Commissioners had large discretionary powers.

They are (says an anonymous writer at that period) not confined to impress vagrants only, though these should be first laid hold of; and,

in executing this with diligence, an opportunity is afforded, which will not often occur, of ridding the country of a set of people which are a nuisance in it, and a disgrace to the society where they are tolerated. If a sufficient number of vagrants cannot be apprehended, persons of a different character are to be impressed ; for the only persons excepted in the Act are those qualified to vote for a Member of Parliament, and people working in harvest time. The words in the Act declare, that persons whom the Commissioners shall judge to be such as are by the statute intended to be entertained as soldiers, and shall deliver over to the military officer, are from that instant to be deemed enlisted soldiers, and subject to the discipline of war. There are in almost every county many turbulent people, who love idleness and wandering, and who, next to vagrants, should be impressed, as strict discipline may make them good soldiers and useful members of society. There is also another class pointed out as objects of the law, viz., persons who, though perhaps of a harmless life, yet have not a sufficient maintenance for themselves and families. To enlist such men is to give them bread. It is serving the public in obedience to the law, and, at the same time, doing the men a good office, though they may be *too ignorant or weak* to be sensible of it when first apprehended.

This author, although he rather approves than condemns the practice of "man-stealing," (Timothy i., 10) appears to have been, in some respects, a benevolent visionary. He, however, completely overlooks the fact, that it is the very nature of man to prefer a precarious existence in poverty and misery, when he spends what he earns in his own way, to living in personal comfort, under the most favourable circumstances, but not a free agent.

The purport and effect of this Bill is thus described by the Rev. Mr. Walter, in his *History of England*, vol. v., p. 487 :—

The Bill (says he) professed to place only the idle at the disposal of those numerous Commissioners whom it organized throughout the country. But it authorised churchwardens, overseers, and constables, to search cottages for those whom they should choose to deem idle, and to keep them in jail till they could be handed over to some recruiting officer ; whilst it rewarded them with from ten to forty shillings for every alleged idler thus captured, and made the man subject to martial law, or, in other words, to the punishment of death, for running back to his family, from the moment the Articles of War should have been read to him. Whilst that the framers of the law did not contemplate confining its operations to the idle only, is evident from a clause forbidding the seizure, in harvest time, of labourers employed in getting in the hay or corn ; which temporary security of their persons, however, was only to be extended to such *harvest labourers* as the magistrate or parochial officers should think fit to provide with protecting certificates. Finally, if the person seized happened to be of such a description as did not come within the letter of this law, so that the forcing him abroad as a soldier would be illegal, yet, if the trampers upon his rights could manage to keep him abroad

more than six months, this aggravation of the injury done him was made a ground for precluding him his right to prosecute the mal-administration of the law; whilst, if he was detained in England, the benefit of the Habeas Corpus Act was to be denied him, and his friends could only rescue him from the hands of his captors by offering proof that he was charged with some crime, and ought to be handed over to the officers of justice.

We are naturally impelled to ask the question,—In what respect do these recruiting laws differ from the existing slave trade of the interior of Africa?

Laws made against right and justice (says Defoe) are unjust laws. Oppressions are tyrannies upon the people; and, though we must submit when they are made by a lawful authority, yet they are not the more just in their own nature.

During the recess of Parliament, after the passing of this Bill, it happened that a gentleman was pressed and confined in the Savoy prison; whereupon his friends applied for a *habeas corpus*. Upon this a question arose, whether this writ was to be granted or not? The question was found to be a difficult one to solve, inasmuch as, by the preamble of this Act, it relates only to persons committed for criminal or supposed criminal matters, which this gentleman was not. The settlement of the legal question was evaded by the gentleman being discharged in consequence of an order from the Secretary at War. By subsequent statutes passed in the reign of George III., the remedies that a writ of *habeas corpus* gives, are extended to all miscellaneous causes of confinement, except, perhaps, an infringement of the privilege of the House of Commons.

An anonymous author of the time makes the following observations, with many others of a similar import, upon this Bill:—

It is to be hoped that this Bill will lay a foundation for a new law, or some new clauses in the Mutiny Bill, for enabling every private soldier, after three years' service, to demand his discharge in time of peace, under proper regulations. Such an indulgence as this, established by law, in favour of our private soldiers, would make the recruiting of our army in time of war, as well as in time of peace, much more easy than at present; for, as our military laws stand at present, no man in his right wits will ever choose to list in our army; for the condition of a private soldier is really terrible. To be engaged for life to serve as a soldier, or until a man has been disabled by disease or wounds, or become so decrepit with age as to be unable to provide for himself, must shock any man who has any forethought or any concern about his future existence, either in this life or that which is to come. Under such circumstances, can we expect that any man will ever voluntarily enlist in the army, except persons who are trepanned into the service, or such individuals as, by their crimes or their

idleness, have lost all character among their countrymen? Private soldiers in the French army are allowed, in time of peace, to demand their discharge; and a man who has served his six years in the army is sure to meet with more respect, not only from gentlemen, but also from his companions, than a man who never was in the army. This circumstance renders it easy for the French Government to make new levies, and to raise recruits upon every occasion: whereas, in this country, even an officer of our army is looked upon with contempt by many of our country squires; and a common soldier is become the *derision* of the populace, as far as their fear will give them leave.

There is not in human nature (says Fielding) a more odious disposition than a proneness to contempt, or to treat others with derision. But contempt is commonly mutual; and there is scarcely any one who despises another, without being at the same time despised by him in return. For example, the common soldier, (thus treated with derision by the populace,) who hires himself out to be shot at for fivepence a day, who is the only slave in a free country, and is liable to be sent to any part of the world without his consent, and whilst at home subject to the severest punishments for offences which are not to be found in our law books; yet this noble personage looks with a contemptuous air on all his brethren of that order, whether of mechanics or husbandmen, from whence he was himself taken.—(*Covent Garden Journal*, p. 271.)

Until the breaking out of this war, hardly any effort was made to recruit the British army from Scotland, obviously from distrust of the loyalty of its inhabitants. Lord Chatham saw the case in its true light. He perceived that they were simply a warlike race, ready in a great measure to follow any master who would give them the kind of employment they desired. Accordingly, two new regiments, Montgomery's and Fraser's, were raised in 1756, within the Highland frontier. Three other corps were raised in 1759 and 1760, which were denominated Keith's, Campbell's, and Johnstone's regiments. The 42nd had been embodied as a police force in 1729; but a second battalion was added to it at the breaking out of the Seven Years' War. The excellent conduct of these corps, who had all been sent abroad either to Germany or to America, made a deep impression at home. The Earl of Chatham, alluding to the subject in Parliament, found himself justified in using the following language:—

I sought for merit (says he) where it was to be found. It is my boast, that I was the first Minister who looked for it and found it in the mountains of the North. I called it forth, and drew into your service a hardy and intrepid race of men, who, when left by your jealousy, became a prey to the artifices of your enemies, and, in the war before the last, had gone nigh to overturn the State. These men, in the last war brought to combat on your side, they served with fidelity as they fought with valour, and conquered for you in every part of the world.

Previously to July 1760, it was estimated that 33,000 Scotsmen, Highlanders and Lowlanders, had been raised in Scotland for service by sea and land.

Such is the fair side of the history of the recruiting of the Highland regiments in Scotland. In practice, the measures adopted were most oppressive. The Fraser Highlanders were levied in Perthshire, two battalions by officers who procured their commissions by raising men. Almost all these officers were Highland lairds, who dragged out their tenants' sons to make up the requisite number. Their will was never consulted : they were compelled to submit, or their parents were instantly turned out of house and home. This is an example only of what took place all over the Highlands of Scotland. The scene was appalling when the period of embarkation arrived. So many young men, dragged away from the bosom of their families, victims to the remorseless demon of war,—parents, sisters, and friends clinging to them in tears,—the wailing pipes pouring out plaintive farewell airs,—presented a picture of distress which could not be witnessed without pain, or remembered with indifference.

A.D. 1757.—*Regiment of Foot—Pay and Deductions.*

RANK.	Subsistence.		Pay.		Poundage.	Hospital.	Agency.	War-rants.	Arrears.
	Day.	Year.	Day.	Year.					
Colonel and Capt.	s. d.	£ s. d.	s. d.	£ s. d.	£ s. d.	s. d.	£ s. d.	£ s. d.	£ s. d.
	18 0	328 10 0	24 0	433 0 0	21 18 10	24 0	3 13 0	3 0 0	79 15 0*
Lt.-Col. and Capt.	13 0	237 5 0	17 0	310 5 0	15 10 3	17 0	2 11 8 <i>4</i>	1 14 0	52 7 0 <i>4</i>
Major and Capt.	11 6	209 17 6	15 0	273 15 0	13 13 9	15 0	2 3 7 <i>4</i>	1 10 6	45 12 7 <i>4</i>
Captain . . .	7 6	136 17 6	10 0	182 10 0	9 2 6	10 0	1 10 5	1 0 0	33 9 7
Lieutenant . . .	3 6	63 17 6	4 8	85 3 4	4 5 2	4 8	0 14 2 <i>4</i>	0 9 4	16 2 5 <i>4</i>
Ensign . . .	3 0	54 15 0	3 8	66 18 4	3 6 11	3 8	0 11 1 <i>4</i>	0 7 4	7 14 3 <i>4</i>
Chaplain . . .	5 0	91 5 0	6 8	121 13 4	6 1 8	6 8	1 0 3 <i>4</i>	0 13 4	22 6 4 <i>4</i>
Adjutant . . .	3 0	54 15 0	4 0	73 0 0	3 13 0	4 0	0 12 2	0 8 0	13 7 10
Quarter-Master .	3 6	63 17 6	4 8	85 3 4	4 5 2	4 8	0 14 2 <i>4</i>	0 9 4	16 2 5 <i>4</i>
Surgeon . . .	3 0	54 15 0	4 0	73 0 0	3 13 0	4 0	0 12 2	0 8 0	13 7 10
Surgeon's Mate .	2 0	36 10 0	2 6	45 12 6	2 5 8 <i>4</i>	2 6 0	0 7 7 <i>4</i>	0 5 0	6 1 8 <i>4</i>
Sergeant . . .	1 6	18 5 0	1 6	27 7 6	1 7 4 <i>4</i>	1 6 0	4 6 <i>4</i>	..	7 0 0 <i>4</i>
Corporals . . .	0 8	12 3 4	1 0	18 5 0	0 18 3	1 0 0	3 0 <i>4</i>	..	4 19 4 <i>4</i>
Drummers . . .	0 8	12 3 4	1 0	18 5 0	0 18 3	1 0 0	3 0 <i>4</i>	..	4 19 4 <i>4</i>
Private Men <i>‡</i>	0 6	9 2 6	0 8	12 3 4	0 12 2	0 8 0	2 1 <i>4</i>	..	2 5 11 <i>3</i>
Artillery { 3d. per £ Agency.									

\* Net Off-reckonings of a regiment of 700 Private Men, 21*73*l.* 0*s.* 1*d.**

† Net Off-reckonings.

‡ Col. Clothing lost by Deserters, 11*s.* 8*d.*—Ditto Captain, 10*s.*—Agent, 5*s.*—Widows, 13*s.* 4*d.*

A.D. 1758.—The Bill which was passed in 1756, and renewed in 1757, for the speedy and effectual recruiting of His Majesty's forces, was to continue in force for only one year. A similar Bill

was brought in this year, which was read a second time and committed. The report was ordered to be received January 16th, but the order was renewed from day to day till June 12th, when it was ordered that the report should be received that day month, before which day the Parliament was prorogued. It is alleged that the cause for not receiving the report on the Bill was, that considerable differences of opinion existed in regard to the granting the writ of Habeas Corpus to pressed men, and it was deemed inexpedient to renew the Bill, until another Habeas Corpus Bill had been passed.

A.D. 1760.—Colonel Dalrymple, who published a military essay this year, thus describes the mode followed for recruiting the army :—

There are two ways (says he) of recruiting the British army—the first, and most eligible, by volunteers; the last, and worst, by press. By the first method, numbers of good men are enrolled, but the army is greatly obliged to levity, accident, and the dexterity of recruiting officers for them ; by the second plan, the country gets clear of their banditti, and the ranks are filled up with the scum of every county—the refuse of mankind. They are marched, loaded with vice, villainy, and chains, to their destined corps, where, when they arrive, they corrupt all they approach, and are whipt out or desert in a month. . . . Of such materials are the armies of Britain now composed—of men who enter into the service through levity, are inveigled or drove into it through necessity, and, lastly, forced into it to supply the deficiency of the other classes.

With the view of obtaining a sufficient supply of good recruits for the army, the Colonel proposes that an Act of Parliament should be passed, whereby the Lord Lieutenants of counties might be ordered by the King in Council to raise the requisite number of recruits by ballot, and to send them to the corps which bears the name of the county : the period of service to be five years for a foot soldier, and seven for a dragoon or trooper. Colonel Dalrymple thinks that “no arguments can be brought against the above plan, except such as are drawn from the weakness of Government, and necessity of yielding to that luxurious effeminacy which has now diffused itself into the very lowest orders of the State. But it is to be hoped that, on the occasion of enacting such a law, every man of public spirit would concur *to support and carry it* into execution, against the licentious efforts of an indolent people, who, under the specious pretext of liberty, would oppose the measure that they might the better enjoy their present slothful security.” The zealous Colonel appears to think that the labour-

ing classes of the people have no right to enjoy the fruits of their own industry, or any claim to the administration of equal justice. He proposes “that there should be no exemption from serving to any person who did not possess wealth sufficient to make it unnecessary for him to exercise any trade or handicraft;” in other words, that the poor should be oppressed by the exaction of a heavy tax, and that no similar impost should be levied upon the wealthy class of the population. Would it not be less unjust, were the terms of this scheme reversed? the wealthy have property to protect, while the labouring classes commonly possess little more than the implements of their trade.—(*A Military Essay, &c.*, by C. Dalrymple, Esq., Lieutenant-Colonel to the King’s Own Regiment of Dragoons, 1760.)

The measures employed for levying soldiers in Scotland at this time are thus described in a small work, entitled *Traditions of Perth*, by George Penny:—

During the German War, the most unwarrantable means were adopted to fill up the army. Each parish was ordered to provide a certain number of men, and these were selected, not by ballot, but by the arbitrary whim and caprice of the authorities. If any young man was accused of being the father of a natural child, or if any flaw could be found in his character, whether moral or political, he was instantly pitched upon, and dragged away, and, to prevent the possibility of escape, he was sent off immediately to a regiment abroad. This unnatural conscription rendered men callous to the yearnings of humanity: no appeal was listened to; the unfortunates were seized, and sent off without a moment’s notice, although, in many cases, the heads of families or the sole support of aged parents.

A.D. 1763.—The Peace of Paris was concluded. With the view of giving bread to the disbanded soldiers, the Commissioners of the Annexed Estates in Scotland resolved upon bestowing some of the King’s rents upon them. “Houses were built for them,” says Lord Kames, “portions of land given them, at a very low rent, and maintenance given them till they could reap a crop. These men could not wish to be better accommodated. . . . They deserted their farms one after another, and commenced thieves and beggars. Such as had been made Sergeants must be excepted; these were sensible fellows, and prospered in their little farms.”—(*Sketches of the History of Man*, vol. ii., p. 24, note.) It was expecting too much to suppose that old soldiers, whose prudential virtues had never been cultivated, should become industrious, persevering farmers, the cultivation of the soil being so alien to their former habits.

A.D. 1764.—The French, as well as the English army, was, for a long time, chiefly recruited by the Captains of companies, who considered the men, in some measure, their own property. In France, it appears that recruiting was conducted by the recruiting parties, or crimping agents, of the Captains of companies, in the most illegal, oppressive manner. The Duke de Choiseul, while Minister at War, directed his attention to remedy this grievance: he issued an order, in which was minutely detailed the mode under which recruiting should be conducted. Fraud, menaces, or violence, on the part of the recruiting parties, were strictly forbidden; and persons convicted of breaking the law were to be punished by the pillory, or by being sent to the galleys. The English Government adopted a different plan—oppression was made legal, repeated Acts of Parliament being passed for the purpose of sanctioning injustice, and declaring that Justices of the Peace, and other agents employed in pressing men, were not liable to any punishment for carrying Acts of that kind into execution.

A.D. 1766.—The Senate of Venice, judging it contrary to humanity that men should engage themselves in the army for life, ordained that henceforth the new recruits shall not be enlisted for more than six years, after the expiration of which term they were to be discharged.

A.D. 1774.—The Hon. Henry Home (Lord Kames) published a plan for the recruiting of the army, in his chapter on the military branch of Government. (*Sketches of the History of Man*, 2 vols. 4to.) This plan excites some attention, inasmuch as it is the production of a man of rare talents, unconquerable industry, and one of the Lords Commissioners of Justiciary in Scotland. “What animates me,” says his Lordship, “to propose the following plan, is a firm conviction that a military and an industrious spirit are of equal importance to Britain, and that, if either of them be lost, we are undone.” His Lordship proposed that “in every shire a special commission be given to certain landholders of rank and figure to raise (press) recruits out of the lower classes, selecting always those who are the least useful at home,—the men to be bound to serve seven years and no longer.” He assumes that “an army of 60,000 men will be required for Britain; no man to be a second time forced into the service, except in case of an actual invasion; and every man who claims to be dismissed, after serving the appointed time, to be entitled to a premium of 8*l.* or 10*l.*, for enabling him to follow a trade or calling, without being subjected to corporation laws.” He further proposes that

"idleness should be totally and for ever banished from the army. Supposing three months yearly to be sufficient for military discipline, the men during the rest of the year ought to be employed upon public works, forming roads, erecting bridges, making rivers navigable, clearing harbours, &c. &c. Why not," says his Lordship; "furnish men for half-pay to private undertakers of useful works? And, supposing the daily pay of a soldier to be 10*d.*, it would greatly encourage extensive improvements, to have at command a number of stout fellows, under strict discipline, at the low wages of 5*d.* a day. The plan proposed," he adds, "cannot fail to promote industry and virtue, not only among the soldiers, but among the working people in general. To avoid hard labour and severe discipline in the army, men will be sober and industrious at home; and such untractable spirits as cannot be reached by the mild laws of a free Government, will be effectually tamed by military law. At the same time, as sobriety and innocence are constant attendants upon industry, the manners of our people would be much purified. . . . Supposing," he adds, "the whole 60,000 to be absolutely idle, yet, by doubling the industry of those who remain," (for the fear of being pressed, I presume, the author means,) "I affirm that the sum of industry would be much greater than before. And the scene becomes enchanting, when we consider that these 60,000 men would not only be of all the most industrious, but be patterns of industry to others."

Lord Kames highly approved of the Pressing or Vagrant Act of 1756; and he asserts, that "its salutary effects were conspicuous even during the short time it existed. The dread of being forced into the service, rendered the populace peaceable and orderly: it did more, it rendered them industrious, in order to conciliate favour. . . . A perpetual law of that kind, by promoting industry, would," he asserts, "prove a sovereign remedy against mobs and riots, diseases of a free country full of people and manufactures. Why, then, were the foregoing statutes limited to a temporary existence? There is not on record another statute better entitled to immortality." Lord Kames' plan is obviously so unjust and happily so impracticable for raising a military force, in the existing state of society in this country, as scarcely to require criticism. There is a strong propensity in some men, even among those who have a fair character for honesty and liberality, to rob and oppress one another according to law. Lord Kames virtually advocates one law for the rich, and another

for the poor. A law which sanctions the arbitrary dooming or adjudging young men to incur all the pains and penalties of a military life, against their will, implies a much greater degree of oppression and bondage than the conscription law, as administered in France, or the law in Prussia, by which every able-bodied youth is obliged to become a soldier for a specified time, where there is no exception of rank, and where substitutes are but rarely, if ever, allowed.

A.D. 1775.—The War of American Independence commenced ; and on the 16th December the Secretary at War “signified His Majesty’s pleasure that, from the said 16th of December, and during the continuance of the rebellion subsisting in North America, every person who shall enlist as a soldier in any of His Majesty’s marching regiments of foot, shall be entitled to his discharge at the end of three years, or at the end of the said rebellion, at the option of His Majesty.”

The Minister at War (November 8th) stated, in the House of Commons, that all his exertions had failed in recruiting the army to its requisite strength. He said, no means had been untried to complete the corps to the full complement,—the bounty had been raised, the standard (minimum height of recruits) lowered, and attempts had been made to *enlist even Roman Catholics*, and to incorporate foreigners singly into the British regiments, but all had failed in the expected effect.

A.D. 1776.—At a meeting of the heritors of the county of Ayr, it was unanimously resolved, that an *impress Act* would be of more avail to the recruiting service than bounties offered by different communities. Large contributions were at this time made by different counties and towns, for the purpose of assisting Government in the raising of recruits ; but the Ayrshire land-holders, instead of following the example of other counties, preferred recommending a compulsory enrolment of their fellow-subjects who happened to be less wealthy than themselves. Dr. Paley defines slavery to be “an obligation to labour for the benefit of the master, without the contract or consent of the servant.” When there is a defect of right, an attempt is frequently made to justify oppression, by alleging that it is a measure of necessity. But in a case where it becomes necessary to force men to join the army, one would suppose that persons of wealth and fortune ought first to be pressed for service, inasmuch as they are the most interested in the defence and welfare of the country.

A.D. 1777.—About the end of this year, when Government was beginning to find some difficulty in carrying on the American contest, proposals were made among its friends to raise regiments by private subscription, and by corporate bodies, for service in the colonies. This offer having been accepted, nine regiments were raised in Scotland, while only two volunteer corps were raised throughout all England.

A.D. 1778.—An alliance was formed between France and the United States of North America, which led to circumstances that imperiously called for a great increase to the army. A Bill was passed this year for the better recruiting of His Majesty's land forces, namely, the Vagrant Act, which was chiefly a renewal of the enactments of 1745 and 1756, for the same purpose. In addition to the able-bodied and alleged idle and disorderly persons, who, according to former Acts, might be pressed, another class was rendered available, namely, any fit and able man convicted of running (smuggling) goods not exceeding 40*l.* value, in lieu of the punishment to which he was liable. Bounty to volunteers 3*l.*; no bounty to pressed men. Parish officers to receive 1*l.* for every man they pressed; to be fined 10*l.* for allowing an impressed man to escape, or for neglect of duty. The inhabitants were to receive 10*s.* for giving information of any able-bodied man who should be apprehended in consequence of such information. Volunteers to receive their discharge after three years' service, unless the nation were at war, in which case they were to serve until peace was proclaimed. Impressed men to serve five years, or during the war. Military officers, who rejected any man who had been approved by the Commissioners, were, by this Act, to assign specific causes of rejection, that the defects might subsequently be investigated and appreciated.

This Act was put into operation by means of a letter to the Commissioners, from the Secretary at War, Lord Barrington, a copy of which is subjoined. It appears to be a choice example of the soft words and wheedling style which persons in power sometimes think it expedient to employ when they are conscious that they are sanctioning and authorising a harsh and cruel measure.

GENTLEMEN,

War Office, 25th June, 1778.

I think it proper, at your first meeting, to submit to your consideration some remarks upon the Act lately passed, "for the more easy and better recruiting His Majesty's land forces and Marines." (18th Geo. III., cap. 53.)

You will find, on examination of this Act, that no man can be legally forced into the service in consequence of it, who can shew that he has any honest way of maintaining himself or family, and that it is evidently the intention of the Legislature, not only to prevent the idle member of society from becoming obnoxious, but to make him useful.

To one who has no occupation, that of a soldier will be both creditable and comfortable; and such is the lenity of this law, that even a person who is apprehended and comes within the description of the Act, may, if he pleases, enlist as a volunteer, which entitles him to a bounty of 3*l.*, and a discharge at the end of three years, if the nation should be at peace.

During his service he will have a sufficient maintenance; and after it is over will probably be the better citizen for the discipline he has been under, and which is never severe, but when severity is wholesome, just, and expedient: this Act, therefore, properly executed, may be of great benefit to the public, even when large armies are no longer wanted, by giving honest and regular habits to those who are at present a burden to the community. It will not be less useful to the men themselves, by removing them from dangerous connexions, and, perhaps, a criminal course of life.

It must, however, be confessed that, to carry these good purposes into execution, it has been necessary to give powers to the Commission which, if abused, may occasion acts of cruelty and oppression. You, Gentlemen, I am confident will guard against everything so disgraceful and pernicious. Soldiers, it is true, are wanted at this juncture; but no necessity of the State can authorise their being got at the expense of justice and humanity.

It is, therefore, the King's strict direction, that no men shall, on any account, be pressed into the service, who are not clearly within both the words and spirit of the Act, viz. :—“Able-bodied and idle disorderly persons, who cannot, upon examination, prove themselves to exercise and industriously follow some lawful trade or employment, or to have some substance sufficient for their support and maintenance.”

His Majesty also strictly enjoins that the motives of those who give information of persons so described shall be carefully examined, lest what is meant for a *wholesome, mild, and useful measure*, should be made subservient to the purposes of private enmity or revenge.

I must earnestly recommend that no person unfit for His Majesty's service be pressed on the officers, however obnoxious he may be.

I am to acquaint you, that this service will be conducted on the part of the military by Lieutenant-Colonel Townsend, that you may, in conformity to the directions of the Act, give notice to him, or to the officers he has deputed to attend you, of the several times and places you shall appoint for the succeeding meetings in each of your respective subdivisions.

(Signed)

BARRINGTON.

The Secretary at War, in the above letter, observes, that if the powers granted to the Commission be abused, they may occasion acts of *cruelty* and *oppression*. It was obviously impossible to carry the Act into effect without great cruelty, inasmuch as both

in letter and spirit it was an unmixed measure of injustice and oppression. It is difficult to imagine in what sense the words "justice and humanity" were used by Lord Barrington. Statesmen, like individuals, have a "proneness to advance their own interests, and this they will do, as much from the bias of the understanding as the impulse of selfishness; for it is the tendency of our minds, in spite of, and even unknown to, ourselves, constantly to see right and justice in the same direction that we see profit."

To talk to men who are forcibly dragged into the army, of the blessings of civil liberty must be very absurd, and it would be equally unreasonable to adduce the necessity of the law, or the urgency of the crisis, as an apology for the partiality, severity, and injustice of the measure.

It may be noticed as a remarkable circumstance, of which military officers are not generally aware, that men were legally forced into the service so late as 1779 and 1780. In the evidence given by General Lord Hill, before the Commissioners on Military Punishments, there is a memorandum which contains the following passage:—

There is no instance in which the system of raising men for the service of the army by voluntary enlistment has been departed from, whatever may have been from time to time the wants of the service for men.—(*Report on Military Punishments in the Army*, p. 321.)

A.D. 1779.—The Vagrant Act was renewed this year, and ordered to continue in force until May 1780. The practical effect of the Act is thus described by Grose.—(*Military Antiquities*, vol. i., p. 98.)

All the thieves (he says), pickpockets, and vagabonds, in the environs of London, too lame to run away, or too poor to bribe the parish officers, were apprehended, and delivered over as soldiers to the regiments quartered in the towns and villages where these banditti had lived. The pressed men deserted; nor did the regiments on which they were imposed take the least pains to prevent their escape, or to retake them, as they justly considered being thus made the companions of thieves and robbers a most grievous and cruel insult, and loudly complained of it as such to their officers.

Grose, whose work first appeared in 1786, states, that pressing soldiers was practised much in the *present form* in the time of Queen Elizabeth; and he adds, that when the exigencies of the service render it necessary to press bad men into the army, they should be sent to regiments quartered in a distant part of the

kingdom, where they and their characters are equally unknown, or divided among the regiments on foreign service. The cruelty and injustice of the measure excite no expression of sympathy for individual suffering from the author.

However unpalatable service in the army may have been during the American War, the levying of troops by force or compulsion must have rendered it additionally odious.

A case occurred in Scotland about this time, which shews the latitude taken by Sheriffs and Justices of the Peace, in deciding upon the persons who were "within the description of the Act." A complaint was given in to the Court of Session, in name of Donald Macalpin, reporting that the complainer was unduly and unlawfully adjudged to be a soldier, and delivered over to a recruiting officer, on pretence of his having some time before worn a *philebeg*, or some other part of the Highland garb prohibited by law, and praying that the complaint might be ordained to be served on the officer and on the Sheriff-substitute, by whom the complainer was so adjudged. A warrant was granted as prayed for. On the officer's paying the complainer's expenses, amounting to 19*l.* 19*s.*, and discharging him from being a soldier, he passed from his action against the officer, the Sheriff-substitute, and all others concerned.

With reference to the oppressive, unjust, and inhuman mode of recruiting the army, by pressing unprotected individuals who had incurred the displeasure of parish authorities, or who had excited the cupidity of some petty official by the prize of 1*l.* for every man he secured, it may be stated that, so late as 1775, the colliers of Scotland were bondmen. They had little, if any, greater share of personal liberty than the Russian serfs of the present day, inasmuch as, if they left the ground or work to which they belonged, and as pertaining to which their services were bought and sold, they were liable to be brought back by summary procedure before a magistrate. Fortunately, neither the spirit of the existing laws, nor the spirit of the people, will now sanction the apprehension of men upon the mere imputation of idleness or vagrancy.

It is worthy of observation, that the practice of pressing seamen never received the sanction of an Act of the Legislature, while numerous Acts of Parliament have been passed whereby the pressing of men for the army has been legalized. Judge Foster asserted that the Crown's right of impressing seamen is grounded upon common law—the result of evident necessity. Upon this opinion,

Dr. Franklin observes, that if impressing seamen is of right by common law in Britain, slavery is then of right by common law there; and he adds, that there is no evident necessity for such a measure, if the end may be answered by giving higher wages.

It is, I believe, a maxim in politics, that power conferred by law is not so dangerous to liberty as an authority acquired from usurpation. But what is the difference in practice to the population of the country? By the recruiting law in question, a man might be pressed and obliged to serve in the army, according to law, and he may also be pressed and obliged to serve in the navy, without, if not against, law.

By a regulation which was promulgated about this time, all deserters from the army were in future to be sent to the East Indies or to the coast of Africa. Statistical reports of the mortality which occurs among troops in the foreign stations had not then been published, and consequently we need not be greatly surprised to find two such different climates as the peninsula of India and the western coast of Africa in the same category.

As a specimen of the recruiting advertisements which appeared in the papers during the American War, one is subjoined:—

*42nd, or Royal Highland Regiment.*

To all North Britons in general, but chiefly to you, O ye Highlanders! is this advertisement addressed: you who, uncorrupted by the universal depravity of your southern countrymen, have withstood, immovable as a rock, all the assaults of surrounding luxury and dissipation; you who, while others, effeminated by voluptuous refinements, and irrevocably lost to honour, lolling in the arms of pleasure, can see the danger of their country with a criminal indifference,—or, slaves of a traitorous and rebellious faction, can behold BRITANNIA insulted by her inveterate foes, the *French* and *Spaniards*, and yet dare even to dispute whether she ought to be assisted! You, O ye hardy race! ye HIGHLANDERS! who have yet arms unenervated by luxury, capable to defend your King and country—to you BRITANNIA addresses herself! She invokes your aid! She calls upon you to exert that well-known military ardour which has long distinguished you from all nations of the earth, and has ever rendered you the terror and admiration of your enemies! She points to the field of honour! She directs you to your own regiment—the 42nd or ROYAL HIGHLANDERS, commanded by the Right Hon. General Lord JOHN MURRAY, of which a second battalion is now raising. And though she scorns to allure the brave by any other motives than the love of glory and of their country, every *gentleman*-volunteer who is able and willing to serve His Majesty in this honourable and uncontaminated corps, shall receive 5*l.* 5*s.* reward, and 1*l.* 1*s.* extraordinary, if he enlists before the 24th of September, by repairing to the drum-head, or applying, &c. N.B.—The officer will not part

with a good recruit, notwithstanding the terms above offered, for the difference of a few guineas, as it is only young fellows of spirit he wishes to enlist.

Fraud and misrepresentation appear to have been practised in all the States of Europe, without compunction, in seducing men to recruit the respective armies. Marshal Saxe, in his *Reveries on War*, thus describes the mode of levying troops in his time on the continent:—"Troops," says he, "are raised by voluntary compact, with or without writing, sometimes by compulsion, but most frequently by artifice." Dr. Jackson, who served "in three British wars, and who had the opportunity of minutely observing the condition of most of the armies of Europe," states the result of his investigations, in regard to recruiting, in the following extract:—

The materials of armies are collected in different ways. They are collected, for instance, by conscription or general levy, by purchase with money as commodities of traffic, and sometimes by force and fraud vulgarly called kidnapping; the conscript may be supposed to be reluctant to arms, the mercenary has no attachment beyond his hire, and the inveigled or kidnapped is necessarily repugnant.—(*On the Formation, Discipline, and Economy of Armies. Third Edition, 1845.*)

On the 22nd February, 1779, the House of Commons resolved itself into a committee upon the Bill for punishing mutiny and desertion, &c. A motion was made, and the question was proposed—"That it be an instruction to the said committee that they have the power to receive a clause or clauses for limiting and ascertaining the time of service of non-commissioned officers and soldiers as are already enlisted, and of such persons as shall hereafter be enlisted in the army." For the motion, 68; against it, 122.—(*Journal of the House of Commons.*) I have not been able to obtain any account of the debate which took place in the House of Commons when this motion was discussed. It may be observed, that although enlistment for a limited period was adopted during every war in which this country was concerned during the last century, a majority of the House of Commons invariably opposed any attempt to make limited service a permanent measure until 1806; and, in 1808, a clause was inserted in the Mutiny Act, which in effect abolished the Act passed in 1806.

The law regarding recruiting in the Mutiny Act humanely gives a certain time—namely, four days—for those who have enlisted, to get off, upon returning the money they have received, and what is called smart money, amounting to 1*l.* The primary

object of this regulation is to prevent persons being trepanned when drunk, and forced to serve against their will. It had been doubted whether the time allowed by Act of Parliament is twenty-four hours or four days. In 1778, three persons, who had taken the enlisting money, had offered to return it, with the smart money, on the third day, which was refused, as it was alleged it ought to have been returned within twenty-four hours. This question gave rise to a suit before the Court of Session in Scotland. The Court gave the cause in favour of the three men, and established this important point, that any person enlisted may be set at liberty upon paying 1*l.*, under the denomination of smart money, together with the amount of the subsistence he may have received, *within four days* from the period of enlistment. The Court at the same time decided that the twenty-four hours given by the Mutiny Act to persons enlisted for the purpose of declaring their assent or dissent to enlisting, runs not from the period of their enlistment, but from the time of their being called before a magistrate in order to be attested, and also that the shilling, or other money given by the Sergeant as the symbol of enlistment, being part of the charge laid out in enlisting, is included in the 20*s.* of smart money paid when the party enlisted declares his dissent to such enlisting.—(*Low v. Drummond*, 30th July, 1778.)

From the difficulties which obviously existed in procuring recruits during the last century, it would appear that the army was a very uninviting profession. In all likelihood, the condition of a soldier was, relatively to the circumstances of the labouring classes of the population in Europe generally, much worse than it is at the present time. An eminent medical officer of the French army, who wrote about the year 1775, thus describes the condition of a soldier as it came under his own eye:—

C'est un axiome en médecine que tout l'homme est de sa nature une maladie: *totus homo à natura morbus*. On devroit regarder celui-ci comme aussi incontestable: *omnis miles à naturâ miser*: tout soldat est miserable de sa nature.—(Colombier, *Code de Médecine Militaire*, vol. i., p. 169.)

Those who know the army in its present condition can have but a faint idea of the privations and discomfort which soldiers had formerly to endure—their daily pay during the American War being about 6*½d.*; and, as alleged, it was the usage of the service for them to obtain their necessaries through the Quarter-Master and Sergeants, at an extortionate rate, and of inferior value.

When the men were billeted on the inhabitants, in most cases they were wretchedly lodged, “often in open, tiled garrets, with an unglazed window, or in dismal vaults, fit only for pigs.” Incredible as it may appear, there was an Irish regiment, in which, when stationed at Perth, the men were under stoppages that left them only  $3\frac{1}{2}d.$  a day. Their common breakfast was a halfpenny roll and a halfpenny-worth of Suffolk cheese. Hunger impelled the men to commit depredations, which were frequently followed by unwarrantable punishments. “It was no uncommon thing to see six, or even ten, of these unfortunate wretches suffer from 100 to 500 lashes each.” At length, a circumstance occurred which put an end to these *public* inhuman and disgusting exhibitions, but not to the private punishments. A soldier, who had a wife and four children, stole a few potatoes from a field. He was tried and sentenced to receive 500 lashes. It so happened that seven men were brought out for punishment the same evening that the man in question was to be punished, and several of them were tied up before him. Some of them cried out terribly, which greatly roused the feelings of the multitude. When it came to his turn, he bore part of his punishment with considerable fortitude, but afterwards his cries were loud and piercing. His poor wife, who had lingered in the neighbourhood in the hope of getting some remission of his sentence, could restrain herself no longer. Setting down her child, she rushed into the square, and laid hold of the drummer’s hand. She was seized, and dragged forth screaming. This was the signal for the washerwomen, who, backed by the multitude, broke through the line, and liberated the prisoners. Most of the officers escaped unhurt: not so the Adjutant, for he was laid on his belly, in which position he was held by some scores of vigorous hands, till he got a handsome flogging on the bare posteriors, in the presence of thousands, inflicted with an energy that would remain imprinted on his memory till the day of his death.—(Penny, *Traditions of Perth*.)

The army of France, before the Revolution, was composed of two distinct classes,—the soldiers, who were doomed to deserve everything and to obtain nothing; and the officers, who were called to fill the higher ranks, without doing anything to deserve that distinction. Unequal combinations are always disadvantageous to the weaker side,—the rich having the pleasure, and the poor the inconveniences, that result from them. This sentiment is admirably illustrated by Goldsmith in the *Vicar of Wakefield*, by the fable of the giant and the dwarf:—

A giant and a dwarf made a bargain, that they would never forsake each other, but proceed to seek adventures. After several combats, in which the allies were victorious, the giant had become rich from the booty he had acquired; but the dwarf had lost an arm, a leg, and an eye; while the giant, who was without a single wound, cried out to him,

"Come on, my little hero! this is glorious sport; let us get one victory more, and then we shall have honour for ever!"

"No," cries the dwarf, who was by this time grown wiser,—"no; I declare off; I'll fight no more; for I find, in every battle, that you get all the honour and rewards, but all the blows fall upon me."

The British army has always been composed of two classes,—rich and poor; and it is deemed most imperative that the line should be very strictly drawn between the officer and the soldier. Commissioned officers serve under laws of a much more lenient character than those which regulate the conduct of non-commissioned officers and soldiers. They are tried by a differently constituted court,—by their peers, in fact. They receive honours, emoluments, and rewards, which the laws and usages of military service scarcely permit a common soldier to entertain a hope of ever enjoying. This distinction of classes appears to be an inseparable consequence of an army raised by voluntary enlistment, more especially when the ranks are partly filled with men who have been condemned to become soldiers in consequence of their reputed vices, thereby converting a regiment into an ambulatory bridewell. Under the regulations which then existed in the army, there was no encouragement for provident men to enlist,—men whose talents, virtues, and attainments, qualified them for the rank of non-commissioned officers. "In proportion," says Foy, "that a numerous preferment of non-commissioned officers is good and useful in an army entirely recruited by military conscription, it is improper in an army raised from the dregs of the population."

The place of an Inspector-General of Recruiting was created either this year or the year preceding. This officer seems to have had the charge of the recruiting of regiments on foreign service, his head-quarters being at Chatham; and I presume a medical officer was attached to his staff, to examine recruits. As to the regiments at home, the commanding officers were instructed to enlist men to fill up vacancies. From this period I infer that recruits commonly underwent a medical examination. Dr. Hamilton (*Duties of a Regimental Surgeon considered*, 1782) mentions the examination of recruits as one of the duties of a Surgeon. Mr. Reide, Surgeon to the 1st battalion of the 1st, or Royal Regiment, complains, however, in his Journal,

(January 1790,) of the unfitness of recruits who had been sent to the corps to which he belonged, without having undergone any medical inspection.—(*A View of the Diseases of the Army, &c. &c., 1793.*)

A.D. 1783.—The preliminary articles of peace with France, Spain, and America, were signed in the month of January ; and, on the 4th of February, there appeared in the *London Gazette* a proclamation from the War Office, which stated—“That all men now serving in any marching regiment or corps of infantry, who have been enlisted since the War Office Order bearing date 16th December, 1775, shall, on the ratification of the definitive treaty of peace, be discharged, provided they shall have served three years from the dates of their attestations ; and all men enlisted and serving as above, who have not so completed their full time of service, shall be discharged at the expiration of three years.” Some of the regiments, whose strength was below the peace establishment, were authorised to enlist able-bodied men who had been discharged from the disbanded or reduced corps, and who were willing to be re-attested, but only for *unlimited service*. Each man who re-enlisted was to receive a bounty of five guineas.

The above proclamation from the War Office was obviously issued in consequence of the mutiny of the 77th and the 68th Regiments at Portsmouth, and the discussions which took place in Parliament on the subject. The 77th Regiment refused to embark for service in India, alleging, as a reason for their insubordination, that they were enlisted on the express condition to serve three years only, or during the American War ; and, as they conceived these conditions were fulfilled, they declared they would not embark for the East Indies. Government eventually deemed it expedient to discharge all the men who had completed their contract, having found that dishonesty is but bad policy. Lord Maitland had, however, previously proved to the satisfaction of the House of Commons, that the men were entitled to all that they claimed,—namely their liberty,—they having completely fulfilled their engagement.

A.D. 1790.—By a Warrant which was issued from the War Office, bearing date 27th October, 1790, the commanding officers of regiments serving abroad, who took upon themselves the approbation of recruits, were directed “*to require and receive sufficient chirurgical testimony respecting the same.*”

Dr. Bell, an experienced medical officer, and formerly Surgeon to the 5th Regiment, makes some pithy observations upon the

recruiting of the army, (*Inquiry into the Causes which produce Diseases in the West Indies*, 1791,) from which I will make one or two extracts.

By a law of this kingdom, Roman Catholics are excluded from serving in the army. Every man who enlists is therefore obliged to swear that he is of the Protestant religion. This to men of nice conscience is a matter of some consequence. When they enlisted they took an oath that they were Protestants; but they might, with equal truth, have sworn that they were Turks or Gentoos. Indeed, it would have been a matter of equal consequence; for, while a man does his duty as a soldier, and is sober, honest, and obedient, it is seldom inquired whether he says his prayers in a mass-house or a mosque. But what shall we say of a law which promotes wilful perjury? What opinion shall we form of that wisdom, which in one instance punishes perjury with deserved severity, and connives at it in another? What tie can be had on a man who swears fidelity to his Prince, at the very instant he is blaspheming his God? who is obliged to act thus before he can be legally empowered to raise his arm in defence of his country? Let the reader speak of such wisdom as it deserves,—for my part I am unable.

Until about the end of the last century every recruit was required to subscribe an attestation which contained the subjoined passage:—

I, \_\_\_\_\_, do make oath, that I am a Protestant, &c.

This passage was first omitted in the recruiting regulations promulgated in 1799.

The following extract from Dr. Bell's work will illustrate the mode in which the business of recruiting was conducted about the year 1791:—

A private soldier is allowed a certain sum of money for every recruit whom he brings to the regiment; and it is a general remark, that the greatest number of recruits is brought by soldiers of dissolute character. They endeavour and succeed in ingratiating themselves with a young unthinking boy, whom they deem likely to answer their purpose. He is plied with spirituous liquors till he is intoxicated, and is then persuaded to enlist. On the return of sobriety and reflection, the poor lad sees, in the utmost extent, the consequence of that error of which he had, in the hour of intoxication, been guilty. In vain he wishes to return to his former occupation; for these vagabonds who call themselves soldiers, before he can recover the common powers of his understanding, have had him examined by a *surgeon*, and attested by a magistrate. But before attestation, he has it in his power to be released from enlistment, on paying 20s. to those who ensnared him,—a swindling forfeiture sanctioned by a law disgraceful to the nation which boasts of protecting the property and liberty of men.

An absurd idea (says Dr. Bell) has gone abroad, that every vagabond is good enough to be a soldier. I know that this idea has been adopted by many officers, and regulates their conduct in the treatment of their

men. *He who is doubted, soon acquires the character which suspicion hath affixed to him.* It is not expected that the British army is to consist of saints or of hypocrites; but as our regiments are frequently recruited from jails, or by men who are dragged from the recesses or labyrinths of vice, it is earnestly to be desired that they should be instructed in their duty, not only as soldiers, but as *men*. A private soldier, without a sense of honour, is a licensed ruffian. It was the licentious and unrestrainable conduct of individuals in the British army in America, that alienated from the cause of this country the minds of many who were wavering, and of many who were well affected. Men born in poverty, nursed in ignorance, and regularly trained to a systematic practice of vice, are commonly found among recruits that have been enlisted in large towns. I conclude, by observing, that some attention to the *morals* of soldiers is as necessary as the means of preserving their health: for the most healthy and most useful soldiers, are in general men of the least blemished character.

A similar sentiment is insisted upon by a military authority of great experience in penal matters. "The great aim," says Sir George Arthur, "should be to prevent the commission of crime, not through the influence of fear, which is in itself degrading to the soldier, but by supplying his mind with intellectual resources calculated to render him less dependent upon criminal gratifications."—(*Evidence on Military Punishments.*)

Much of the crime which is said to prevail in the army, is usually attributed to the circumstance that the recruits are obtained from the labouring classes of the population, or, as they are sometimes characterized, "the scum of society," apparently assuming that the poor are generally vicious,—an assumption which, I believe, has no solid foundation. "The most contracted brow of severity," says Colonel Dalrymple, "armed with the awful cat-o'-nine tails, cannot reclaim every profligate, nor make a villain honest;" and the reason he assigns for the inefficiency of flogging in reclaiming alleged offenders is, that the recruits come from the "very dregs of the people." "Many of the recruits may be more or less insubordinate and disorderly; but I have no hesitation in affirming, that the delinquencies of soldiers chiefly arise from circumstances intimately connected with the service, occasionally from the indiscretion of officers, frequently from bad example, and sometimes from the injudicious employment of the awful cat-o'-nine tails." Harshness and severity are but very inefficient means of repressing irregularities, or of promoting good conduct in soldiers. Measures which are calculated to improve their minds and exalt their character, will be much more effectual; and in proportion as their minds are cultivated, and their conduct is praiseworthy, the officers will treat them with respect.

Several examples might be stated of the abolition of severe and impolitic laws and usages in the army, owing, probably, to the meliorating influence of civilization and social improvement: one instance may be adduced. For the alleged purpose of repressing immorality, it was at one time a rule in the army to fine every soldier who had the misfortune to be affected with the venereal disease. A man who was infected with one grade of the disease was obliged to pay 10*s.* 6*d.*, and for another grade he paid 5*s.* The Surgeon of the regiment was the informer, the judge, and the receiver-general. By the civil laws of the country, an informer, I believe, never receives above one-half of a fine which is levied in consequence of his information; but in this example of military law, the Surgeon pocketed the whole, and from his judgment there was no appeal. It is obvious, that by this impolitic law a Surgeon would be frequently led into temptation, his interest and the principles of humanity and common sense being often at great variance. Soldiers, as might be expected, did everything in their power to evade the summary jurisdiction of the Surgeon, whose fine or punishment was a much-dreaded penalty. Half a guinea, or even 5*s.*, was a great sum to a man whose income varied from 3*s.* to 4*s.* a week. Many Army Surgeons recovered this odious assessment with much pain. The experience of many years demonstrated that the remedy was not calculated to check the immorality it was intended to prevent; indeed, in many instances the fine was found to be productive of much individual distress, and an aggravation of the disabilities of soldiers. This regulation was in full operation as late as 1795, but at what period it was abolished I do not exactly know. A similar rule obtained in the navy, but it had been abolished before that date.

A.D. 1794.—From the commencement of the war with France, the attention of Government had been particularly directed to the improvement of our military establishment. The various projects which from time to time had been suggested by individuals who felt an interest in the subject, and which were either adopted or rejected by the Legislature, had all one common object, namely, to protect and benefit the private soldier, to encourage the recruiting of the army, and to improve the character of those who compose it by bettering the condition of the soldier himself.

A.D. 1796.—A code of regulations was promulgated, for conducting the recruiting service, which directed that an hospital mate should be placed under the orders of each Field Officer of a

recruiting district, to examine the recruits when brought to him for inspection ; and in 1799, an Order was issued, directing that the chirurgical testimony of the fitness of a recruit should be certified on the back of each attestation. After this period, recruits were not required to swear that they were Protestants.

The approval of a recruit by a medical officer, relieves a commanding officer of great responsibility, and consequently he should be very cautious in enlisting a man who has not been found fit for the service by competent medical authority.

A.D. 1797.—During this session, when the usual resolutions on the Army Estimates were moved by the Secretary at War, General Fitzpatrick suggested a material alteration in the mode of recruiting the army :—“It had often been observed,” he said, “that in this country, where we boasted of so high a degree of liberty, the condition of the soldier was worse than in any other part of Europe. In this country, the soldier was bound to serve for life ; in other parts of Europe, the term of service was limited.” He urged several reasons why the period of service should be limited ; but the principal of these was *humanity*. The Secretary at War replied, by stating, that however motives of humanity and considerations of policy might incline him to such a measure, he was not prepared for the present to say anything one way or other.

Humanity towards recruits and soldiers, as contemplated by General Fitzpatrick, implies, that Government should not sanction the enlistment of any man for an unlimited period. That portion of the labouring classes of the population who are disposed to become soldiers, frequently exercise so little reflection, that they seem to prefer enlisting for unlimited to limited service, even when they have the option to engage for a specific period. To treat them, therefore, with the kindness in contemplation, it would be necessary completely to abolish enlistment for life, and not to permit men to engage for an unlimited period. Were the plan of levying recruits by enlistment for a limited period adopted, there is much reason for presuming that the army would become more popular, and that desertions would be much less frequent. There is also another desirable consequence which I anticipate might follow this mode of recruiting the army ; the intellectual and moral qualities of soldiers might be better cultivated, and useful education more widely diffused.

Soldiers who are enlisted for life, rarely evince much disposition to cultivate their mind ; and hitherto no very well-directed measures have been adopted to promote information among them ; but

it is hoped, that were they uniformly enlisted for a limited period, it would not be deemed inexpedient to extend the means of education, and it is also hoped that the men would be more anxious to acquire information, inasmuch as it might be useful to them when they returned to civil life.

A.D. 1799 (October).—The following General Order was issued :—

Volunteers from the militia into regiments of the line, the Guards, and the Artillery, to serve for five years, and not to be sent out of Europe, and to receive a bounty of 10*l.* 10*s.*

A.D. 1802.—A new class of medical officers was appointed, namely, *District Surgeons*, who were employed in the several recruiting districts, to examine recruits. Twenty-six officers of this class were employed in the districts in 1808 ; but they were replaced by Staff Surgeons, by an Order of 1810.

A.D. 1803 (23rd May).—Total bounty to an Infantry recruit, in money and clothes, 7*l.* 12*s.* 6*d.*

A.D. 1804.—Towards the close of 1804, says Dupin, when England most apprehended an invasion, the Government authorised the commanding officers of corps to enlist ten boys under sixteen years of age, for each company, making 100 per battalion.

Who could believe (says Dupin) that a youth under sixteen years of age, to whom the civil law denies the right of purchasing or disposing of real or even personal property, can for ever alienate the property of his own person ? A child may sell himself, or rather be sold by his parents, for life ; and the difference between the price of enlistment for limited and unlimited service is only 1*l.* 1*s.* When the parents or tutors of a youth under sixteen years of age induce him to enlist for life, *they receive a reward of 2*l.* 2*s.*!* Such a measure is the height of immorality ; it goes to establish a military traffic on the shores of Europe, upon the same principles which encouraged and gave vigour to the odious traffic for slaves with the people of the most barbarous countries of Africa.—(Charles Dupin, *View of the Military Force of Great Britain.*)

Sir Robert Wilson published a letter this year, addressed to the Right Honourable Mr. Pitt. It was entitled “*An Enquiry into the State of the Military Force of the British Empire,*” &c. In this letter he mentions a great variety of circumstances which deter men from enlisting, and render those who do enlist, of comparatively little value to the profession. One of the chief means he suggests for improving the condition of the soldiers is, *shortening the duration of service.* He says, “It is strange that in a free country, a custom so repugnant to freedom as enlisting for life,

and to the particular character of the British constitution, should ever have been introduced; but more singular that the practice should have been continued, after every other nation in Europe had abandoned it as impolitic, and as too severe an imposition on the subject. "The independence of an Englishman," says he, "naturally recoils at the prospect of bondage, which gradually produces discontent, against the bent even of inclination."

By Act of Parliament, courts-martial were authorised to commute, in certain cases, the sentence of death for general service for life in any part of the world, which was usually understood to be service for life in the West or East Indies; and, during the war, when a regiment was ordered to proceed to a foreign colony or dependency, it was usual to fill up the vacancies in the ranks, sometimes to the extent of 200 or 300 men, from the delinquents and convicts who were found in jails and other places of coercion. According to Dupin, "the hulks were drained and the prisons emptied more than once to supply the want of soldiers."

(16th June.)—Total bounty to an Infantry recruit, 16*l.* 16*s.*

A.D. 1805.—During this year an Act was passed, which gave permission to recruit from the militia in the same manner as from towns and the agricultural population,—a measure which was very successful in adding to the strength of the army. A periodical writer alleges, that "the volunteers from the militia who filled the ranks of the army during the last war, were a class of men far superior, both in education and character, to the recruits enlisted by the parties in the present day. Many men who could not have been induced to enlist voluntarily, when taken by the ballot from their homes and occupations imbibed a taste for the service." Admitting the statement respecting the superior quality of the recruits received from the militia to be well founded, the reason for their volunteering for the line may be otherwise explained, in as far as regards the Scotch militia. The militia of Scotland consisted almost entirely of substitutes; in some regiments there were not above one per cent. who were principals. Substitutes received a bounty, or present, from the principals, varying from 40*l.* to 60*l.*, a sum which was calculated to induce a respectable class of men to volunteer for the militia, the service in which being at first presumed not to last longer than five years. When a soldier in the militia volunteered to serve in the line, he received the current bounty, which was, at one time, as high as 16*l.* 16*s.* Even during peace substitutes for principals drawn to serve in the French army receive a present of from 60*l.* to 80*l.* It will thus appear that

high bounties, not merely the incident of the ballot, produced many good recruits.

A.D. 1806.—Early in the session of this year (3rd April), Mr. Wyndham, the Secretary at War, brought forward his military arrangements, which have been characterised as being most important in their object, wise in their contrivance, beneficial in their tendency, and, considering the formidable opposition made to them, most creditable to the character of the Administration.—(*Annual Register*). Mr. Wyndham, in his military plan, professes to trust to the simple and obvious expedient of bettering the condition and prospects of soldiers, on the sound and universally acknowledged principle, that, wherever men are wanted for any occupation in society, they may be obtained for that service by holding out to them a suitable encouragement, and in no other way, except by compulsion. He argued, that if we were to have an army, by voluntary enlistment, it is essentially necessary to improve the trade of a soldier, and to bring it into fair competition with a sufficient portion of the trades and callings of the lower orders ; and till this was done, we should be striving in vain, in the hopeless task of persuading men to embrace a pursuit in opposition to those motives which usually decide them in the choice of a profession. To reduce these principles to practice, his plan comprehended an improvement of the pay of soldiers, and a better provision for those persons who were disabled from further service by wounds, infirmities, or age ; but the principal change which he introduced into the army was in the terms of the engagement of soldiers. Instead of an engagement to serve for life, he proposed that they should be enlisted to serve for a term of years. According to his plan, the term of services was divided into three periods, as follows :—

	First Period.	Second Period.	Third Period.	Total Three Periods.
	Years.	Years.	Years.	Years.
In the Infantry . . .	7	7	7	21
In the Cavalry . . .	10	7	7	24
In the Artillery . . .	12	5	5	22

At the end of each period the soldier should have a right to claim his discharge. If he re-enlisted, and served the second period, he should be entitled to a pension of 5d. a day for life ; and at the end of the third period he should be discharged from the army, with a pension of 1s. a day.

Mr. Wyndham's measure met with great opposition in Parliament ; and it appears that, of fourteen opinions given to the Commander-in-Chief, by General Officers, seven were in favour of limited service, six against it, and one doubtful.

On this subject we may conclude, with Mr. Alison, (*History of Europe*, vol vi., p. 115,) that "it is difficult to avoid the inference, that explicit reliance is not always to be placed on the views of practical men in legislative improvements ; that their tenacity to existing institutions is often as great as the proneness of theoretical innovators to perilous change ; that little credit is to be given to the most eminent professional persons when they claim for the people of a particular country an exemption from the ordinary principles of human nature."

When advocating the Bill, Mr. Wyndham stated, that the usual method which had been resorted to for supplying deficiencies in the army, was by enrolling convicts, entrapping men during a state of intoxication, and enlisting persons suffering under temporary distresses, and inconsiderate boys. "To such a height has this arisen," he added, "that of late years our only resource has been recruiting boys ; men grown up with all the grossness, ignorance, and improvidence incident to the lower orders, are too wary to accept our offers. We must add to the thoughtlessness arising from situation, the weakness and improvidence of youth : the practice of giving bounties is decisive proof of this. . . . Men require no temptation to engage in a profession which has sufficient inducements of its own."

By such means, he maintained, the character of the army was brought into disrepute, and the necessity for strict and severe discipline created. A soldier should by this Bill be no longer a sort of reproach, so as for persons to say, when he enters the army, "Oh ! he is gone and done with." It has been observed by Sir Samuel Romilly, that Mr. Wyndham did not propose any mitigation of the cruel punishments to which soldiers are subject ; indeed, he observed that a very severe discipline was what he conceived to be necessary.

Mr. York strongly opposed the Bill. He was averse to the plan of limited service, which he considered as a dangerous innovation ; and he argued that soldiers could not to be said to be enlisted for life, inasmuch as the existence of the army itself depended on the annual votes of Parliament. When Mr. York propounded this reason he must have known, one would suppose, that he was discovering the weakness of his own argument.

During the discussion upon this Bill, the House was informed by General Walpole, that the experiment of recruiting for a limited period had been tried, with the best effects to the recruiting service, during the American War, and without any of the bad consequences which some of the Members anticipated. This fact appears not to have been known to the Members of the House of Commons. The amiable and excellent Sir Samuel Romilly spoke in support of Mr. Wyndham's Bill. "The ground upon which I principally supported it was," says he, in his Diary, "that it was repugnant to the principles of our constitution, that there should exist in it an army composed of an order of men quite distinct from the rest of the community, and who have given up those liberties which are incompatible with military discipline, never to resume them; that men who enlist for a limited period of time continue citizens, and have before them the prospect of once again enjoying that personal liberty and those privileges; that this not only renders the army less formidable to the liberties of the country, but much more formidable to the enemy to which it is to be opposed. I cited Blackstone, vol. i., pp. 408, 414." On a division the question was carried by a majority of 206 to 105, and the Bill was ultimately passed in the House of Commons on the 6th of June.

Though Mr. Wyndham's military system did not entirely accord with his principles, inasmuch as it failed in holding out to the military profession an equal remuneration to that obtained by persons of the same rank in life with soldiers, and did not excite that prospective encouragement which men might look forward to with reasonable confidence in other occupations, still it was an important and highly beneficial measure. Considering the restraints and inadequate remuneration of common soldiers, he must have concluded that the comparatively idle and dissipated life would have a seductive influence in procuring volunteers for the army.

Mr. Wyndham was, no doubt, right in asserting that the efficiency of an army requires that soldiers should be kept under "a very severe discipline;" but severe discipline is an element which should greatly enhance a man's claim to a liberal remuneration—to a high rate of wages.

From the discussions which took place in the House of Commons on Mr. Wyndham's Bill, it appears to have been generally inferred, that recruits would be much more anxious to engage for limited than for unlimited service.

After the passing of the Bill, the total bounty to an infantry recruit was reduced to 11*l.* 11*s.*

Mr. Wyndham's plan comprehended some addition to the daily pay of soldiers; but, previously to noticing the amount, I may state the usual military pay of a private in infantry corps before his Bill passed. The pay or wages of any particular class, such as the army, may be compared with the average wages of other classes of the community, or, it may be compared with the quantity of wheat it would purchase. It is sufficient for my purpose to confine myself to the first mode. I am indebted to Dr. Wade's *History of the Middle and Working Classes* for the following account of wages in civil life:—

Year.	Pay of a Private Soldier.		Wages in Civil Life.	
	Per Day.	Per Week.	Husbandry Wages, per Week.	Domestic Artificers, per Week.
1557	0 8	4 8	..	..
1593	..	..	2 6	3 9
1598	0 8	4 8	..	..
1610	..	..	3 5	4 6
1620	0 8	4 8	..	..
1639	0 8	4 8	..	..
1651	..	..	6 10	7 6
1655	0 9	5 3	..	..
1661	0 6	3 6	6 9	..
1682	..	..	5 11	..
1730	..	..	..	15 9
1771	0 6 <i>4</i> <sup>1</sup>	4 0	..	..
1792	0 10	5 10	..	..
1796	..	..	8 11	17 3
1797	1 0	7 0	..	..
1800	1 1	7 7	..	18 0
1803	..	..	11 5	..
1806	<i>s. d.</i>		<i>s. d.</i>	
	under 11 1	7 7	..	28 0
	7 years 1 2	8 2	..	..
	7 years 1 3	8 9	..	..
	14 years 1 3	..	..	..
1811	..	..	14 6	30 0
1819	..	..	12 0	33 0
1824	..	..	10 0	33 0
1829	..	..	11 0	33 0
1832	..	..	12 0	33 0

The daily expense of a soldier to the State may be estimated at about 1*s.* 8*d.* or 1*s.* 9*d.* This is of course a very rough estimate.

The intention of increasing the pay 1*d.* per day by Mr. Wyndham's Act, during the 2nd and 3rd period, was obviously for the purpose of inducing soldiers to re-enlist after having served a first or second period.

With respect to pensions, a soldier who had served in the infantry for fourteen years, and was discharged, was entitled to a pension for life of 5*d.* a day; and if he had served twenty-one years, and was discharged, he became entitled to a pension of 1*s.* a day. A soldier had a claim of right also to an annuity for life if he were discharged in consequence of being *disabled* and *unfit* for service, without reference to the length of time he had served.

Nominally the daily pay of a private soldier in the infantry, immediately after the Restoration, was 8*d.*, but nearly one-fourth of that pay was deducted for the purpose, as alleged, of furnishing him with clothing,—in reality, however, that the greater part of it might be added to the emoluments of the Colonel, under the anomalous title of “Off reckonings.”

The amount of the deductions from what was issued as pay to the soldier may be thus stated:—

	£ s. d.
Pay for one Year, 8 <i>d.</i> a day . . . . .	12 3 4
Subsistence, 6 <i>d.</i> a day . . . . .	9 2 6
	<hr/>
	£3 0 10
<i>Annual Deductions:—</i>	
Poundage, 1 <i>s.</i> per £1 . . . . .	£0 12 2
Hospital Money . . . . .	0 0 8
2 <i>d.</i> per £1 to Regimental Agent . . . . .	0 2 0½
½ <i>d.</i> weekly for Medicines . . . . .	0 2 2
½ <i>d.</i> weekly to Paymaster . . . . .	0 2 2
Total stoppages . . . . .	<hr/> 0 19 2½
Off Reckonings paid to the Colonel . . .	£2 1 7½

The clothing furnished to the soldiers was not considered equivalent to more than one-half of the “off reckonings.” These deductions from their pay were continued until about the year 1771.

The foregoing table shews the relative remuneration of different professions for a period of nearly three centuries, by which it appears that the pay of the army has for the last two been considerably under that of husbandry wages, and greatly under the wages of domestic artificers. The rewards of the army are partly pecuniary and partly honorary. It is, however, the officers who chiefly reap the latter, while the common soldier receives no honour and little compensation beyond his pay, which is very inadequate for the toils and dangers he undergoes. Political economists have found some difficulty in bringing the army under any of the circumstances which tend to equalize the advantages of different employments. To reconcile the anomaly, Mr. M'Culloch observes, that, “except when actually engaged in warlike operations, a

soldier is comparatively idle, while his free, dissipated, and generally adventurous life, the splendour of his uniform, the imposing spectacle of military parades and evolutions, and the martial music by which they are accompanied, exert a most seductive influence over the young and inconsiderate. The dangers and privations of campaigns are undervalued, while the chances of advancement are proportionally exaggerated in their sanguine and heated imaginations."

Dr. Wade (*History of the Middle and Working Classes*) assigns a moral reason for equalizing the inadequate pay of the common soldiers. "The army," says he, "is mostly filled from the same causes which fill the jails and houses of correction; it is not choice, but necessity, which compels many to enlist therein. Having lost their character, or contracted habits of idleness and improvidence, which exclude them from the better paid walks of civil industry, they are constrained to devote themselves to the hardships and perils of military life. Muscular strength," he adds, "and not character exempt from moral turpitude, is required. Hence the low rate of wages in the army, because, in addition to those forced into it by defect of education, or neglect of parents, they are also depressed by the competition of the outcasts of all other branches of social industry." There must always be a worst paid profession or trade, and the army has long been that worst paid trade in this country, being "the common sewer of unemployed labour." This conclusion is obvious, when we reflect upon the various Acts of Parliament which have been made, sanctioning the pressing of men for the army,—the overwhelming of the unprotected by power and injustice.

Had the encouragement to enter and remain in the army been equal to that which is awarded for labour in civil life, neither force nor deception would have been required to obtain the requisite supply of recruits. Colonel Dalrymple, in 1760, pointed out the real causes why recruits are often obtained with great difficulty, namely, "to the value of money sinking as the nation increases in riches, and yet the pay of the soldier continuing the same,—*to the enlisting for life*,—and, lastly, to the contempt and disregard the army is fallen into from these reasons and the bent of the nation to commerce." In other words, inadequate rewards for service, and life bondage. The recruiting Sergeant prospers most in periods of distress, when work is difficult to be procured, and wages are low.

A.D. 1807.—The appointment of Inspector-General of Recruit-

ing was suppressed, and the duties of the situation have ever since been performed by the Adjutant-General.

On the 5th March, Earl Grey moved, in the House of Lords, for leave to bring in a Bill which would enable persons of every religious persuasion to serve in the army and navy, without any other condition but that of taking an oath which was repugnant to no religious opinions. By the law, as it then stood, a Roman Catholic in Great Britain could not rise to the rank even of a subaltern, in consequence of officers of every grade being liable to take the Test Oath if requested, while in Ireland persons of that religious persuasion were permitted to rise to any situation in the army except Commander-in-Chief of the Forces, Master-General of the Ordnance, or General on the Staff. By Lord Grey's Bill, a draft of which was submitted to the King, the services of the Catholics were to be received without any restriction, on the condition only of taking the Oath of Allegiance. The Bill was withdrawn by Ministers, in consequence of the King having had invincible objections to some of its provisions; and, as they declined giving a written pledge that they would propose no farther concessions to Catholics, a message was sent to them, intimating that their services were no longer required.

A.D. 1808.—A clause was introduced into the Mutiny Act to permit men to enlist for life; by which means Mr. Wyndham's scheme of recruiting was practically annulled, and many of his plans for improving the condition of soldiers defeated. Shortly after the passing of the Mutiny Act this year, a General Order (21st April) was issued, of which the following is a copy:—

His Majesty has been graciously pleased to direct that men (soldiers?) who, under the provisions of the Mutiny Act now in force, enlist into the service for an unlimited period of time, shall, over and above all former bounty, receive the sum of 5*l.* 5*s.*, to be paid on intermediate approval.

Mr. Wyndham's plan of abolishing unlimited service, and making limited service as to time universal, was consequently not in operation for a much longer period than eighteen months. From this date two different sums are specified in the General Orders, as bounty for recruits, namely,—

Total Bounty for Recruits .	$\left\{ \begin{array}{l} \text{Limited Service . } \\ \text{Unlimited Service } \end{array} \right.$	<i>f s.</i>
		11 11 16 16

Being a premium of 5*l.* 5*s.* in favour of an unlimited engagement. Consequently Mr. Wyndham's great and enlightened plans for improving the composition and elevating the character of the army became practically a dead letter, and the old system of life

slavery was restored. Henceforward almost all the men who enlisted, engaged to serve for an unlimited period,—in fact, for life.

So little do recruits generally value personal liberty, or dread the restraints of military discipline, that the difference of a few shillings of bounty, or the coaxing of a recruiting Sergeant, will induce them to prefer an engagement which implies a bondage for life, to an engagement which comprehends a thraldom of only seven years. In France, the law does not sanction an engagement for life.

A.D. 1810 (22nd May).—Scale of money to be received in place of substitutes for soldiers, whose discharges are sanctioned by the Commander-in-Chief:—

	£ . .
Infantry . . . . .	{ Limited Service . . 37 5
	{ Unlimited Service . . 47 16

This scale was reckoned at the rate of bounties for two men, including the usual reward to recruiting parties. During the Wars of the Empire in France, a sum as large as 500*l.* was sometimes given to procure the liberation of a soldier from the army; and, at present, the price of a substitute for seven years is from 60*l.* to 80*l.*

By the change which was made in the Mutiny Act, permitting recruits to enlist for life, Mr. Wyndham's Bill, as has been already stated, became in a great measure abrogated. In 1810, when a negociation for bringing him into the Ministry was pending, he addressed a friend, and thus stated his opinion of the alterations that had been introduced into the administration of the army:—"I feel," says he, "but little stomach to return to office, unless I have a *carte blanche* as to my military plans; and even then the whole is so *bedevilled*, that there is no restoring things to their original state." Mr. Wyndham had so proud a conviction of the benefits resulting from his new constitution of the army, as to declare that, "like the eminent Italian musician who had a piece of music inscribed on his tomb, or the Dutch mathematician who had a calculation for his epitaph, he should desire no other monument, as a statesman, than that system."

Among the provisions of the regulations which were adopted for the recruiting service, during an early period of the war, it ought to be noticed that England was divided into fifteen recruiting districts, Scotland into four, and Ireland into five. In each district the operations were directed by an Inspecting Field-Officer, who was assisted by a Staff Surgeon, an Adjutant, a Sergeant-Major, and the requisite number of Depôt Sergeants. The recruiting districts were subdivided, and placed under the charge of officers, who were responsible for the conduct of the

recruiting parties under their control. The recruiting districts have, since the peace, been reduced to five in England, one in Scotland, and four in Ireland; but the same general principles have, ever since the establishment of the system, continued in operation.

The recruiting for the Royal Guard (including the two regiments of Life Guards, the Royal Horse Guards, and the Foot Guards, the Artillery, Engineers, and Marines,) is conducted independently of the District Inspectors.

This year an Act was passed, under which recruits might be enlisted either for life or for a limited service of *twelve years*, for the East India Company's European force, amounting to about 14,000 men. As to the native force, amounting to about 190,000 men, the terms of their enlistment enable them to claim and obtain their discharge, during a period of peace, at their own request, after they have served three years; but during war they have no claim of right to be discharged after any period of service.

The following pensions are awarded to soldiers who have served in the East India Company's service:—

Sergeants of the European force, who have served twenty-one years, whereof the last eight have been in that capacity, are entitled to receive, during life, a pension of 1*s.* 9*d.* a day, and those who have lost a limb, 2*s.* a day.

Sergeants who have served fourteen years in the Company's army, and who have been discharged on account of debilitated constitutions, are entitled to 1*s.* a day for life.

All Corporals and Privates discharged at their own request, after twenty-one years' service, are to receive 1*s.* a day; and Corporals and Privates, after fourteen years' service, discharged as unfit, on account of broken constitutions, are entitled to receive 9*d.* a day.

Native soldiers, after fifteen years' service, are entitled to an annuity for life.

**A.D. 1814.**—The difference of the prudential character of the inhabitants of Great Britain and Ireland is distinguished in the following table, which shews the number of soldiers who volunteered from the militia into regiments of the line in 1814:—

	Total Volunteers.	Limited Service.	Unlimited Service.
English . . .	2357	687	1670
Scotch . . .	320	84	236
Irish . . .	566	1	565

Consequently, it appears that for about every twenty-five English and Scotch militia-men who volunteered for life, ten enlisted for

limited service ; and for every 565 Irishmen who made an engagement for life, only one man enlisted for a limited period. The mean of the whole number of volunteers was ten limited for forty unlimited.

*Statement shewing the Number of Recruits who Enlisted during the year 1814 :—*

Men.		Boys.	
For Limited Service.	For Life.	For Limited Service.	For Life.
632	6554	49	754

Thus it appears that only one man enlisted for limited service for every ten who enlisted for life, and one boy for every fifteen who engaged for an unlimited period. The recklessness and inexperience of youth appears to have contributed greatly to increase the number of unlimited engagements, which the following relative statement will shew :—

	Unlimited.	Limited.
Militia-men .	32	10
Recruits . . .	100	10
Boys . . .	150	10

Dupin (*Force Militaire, &c.*) says, with reference to the recruits who enlisted in 1814, “What are we to think of the lower class of a population of which nine-tenths of the recruits for the army enlist for life?”

It is worthy of observation that recruits in general preferred enlistment for life, not only during the war, when bounties were comparatively high, but also during a period of peace, when the bounties were low, and the premium for unlimited service not more than a few shillings. The following statement, respecting the recruits approved in the Dublin district, will shew how few men preferred limited to unlimited service, in an Irish district, during a very long period.

	1809	1810	1811	1812	1813	1814	1815	1816	1817	1818	1819
Recruits Approved	1103	1224	1480	2624	2531	1303	2759	2027	989	1090	2029
Limited Service .	15	8	4	11	7	7	6	4	..	..	6
	1820	1821	1822	1823	1824	1825	1826	1827	1828	Total.	
Recruits Approved	1296	1386	2274	2129	2496	4839	3243	2006	859	39,687	
Limited Service .	7	..	3	4	2	6	3	1	1	96	

Consequently, it appears that, during a period of twenty years, comprehending seven years of war and thirteen of peace, only about 2·4 per 1000 enlisted for a limited period. In Cork, the ratio of limited-service recruits was, I believe, less than in Dublin. Subjoined, I have added a similar return of the recruits enlisted in the London district from 1817 till 1828, both years included.

	1817	1818	1819	1820	1821	1822	1823	1824	1825	1826	1827	1828	Total.
Recruits Approved . . .	696	695	454	710	832	458	825	1411	2541	1789	1036	559	12,006
Limited Service . . .	21	28	7	19	15	10	7	42	40	24	2	3	218

By this return, it appears that, during a period of twelve years only, 18 per 1000 of the recruits that enlisted in London engaged for a limited service in regard to time. In Glasgow, the ratio of limited-service recruits was about 145 per 1000. These statements shew the relative character of the population of the three divisions of the kingdom for prudence and caution.

These data are too limited, for, in political investigations, the documents and facts should be full and complete, in order to be just and correct; and before we arrive at an important conclusion, the whole materials which bear upon the subject should be considered. I may, however, state, in the words of Sir John Pringle, that "the data are, perhaps, too few to deduce certain consequences from them, but as I have not found any other I could depend upon, I was obliged to make the best use I could of them, which, at least, will serve for a specimen of what may be done in this way upon further experience."

11th April.—Napoleon abdicated the throne of France.

30th May.—Peace was declared between France and the Allied Powers.

— May.—Bounty in money and clothes to a recruit:—For life, 5*l.*; limited service, 3*l.* 14*s.*

A.D. 1815 (1st March).—Napoleon Buonaparte returned to France.

1st April.—Bounty to a recruit in money and clothes:—For life, 7*l.* 7*s.*; limited service, 4*l.* 4*s.*

Soldiers whose time of service had expired, and who re-enlisted, were to receive the same bounty as if they had not been in the army, provided they were not above a specified age, and found fit by a medical officer.

The numerical returns of recruits raised during the late war, submitted to Parliament by the Adjutant-General, were as

follows—(extracted from Dupin's work *On the Military Force of the United Kingdom*) :—

Years.	By Common Recruiting.	Additional Defence Act.	Volunteers from the Militia.	Total.
1803	11,253	..	..	11,253
1804	9,430	1,658	..	11,088
1805	11,677	8,288	13,580	33,555
1806	11,875	5,834	2,969	20,677
1807	19,114	..	..	19,114
1808	12,963	..	29,108	61,185
1809	11,720	..	23,885	44,700
1810	9,095	..	..	9,095
1811	11,472	..	11,453	22,925
1812	14,432	..	9,927	24,359
1813	11,285	..	19,245	30,530
1814	7,989	..	3,243	11,232
	142,305	15,780	113,409	271,494

From the commencement of 1804 to the end of 1813, being a period of ten years, that is, during those years of the last war which were chiefly passed in warfare, the total decrement of the British army by deaths, discharges, and desertions, amounted to 179,671 men, and the increment by recruits, during the same period, about 248,156.

The annual loss may be thus stated :—

Mean strength, Cavalry and Infantry . . . . .	163,035
Deaths . . . . .	9,682
Discharges . . . . .	3,453
Desertions . . . . .	4,833
 Total annual loss . . . . .	17,968

Consequently, the annual decrement, in 100,000 men, was by

Deaths . . . . .	5,939
Discharges . . . . .	2,118
Desertions . . . . .	2,964
 11,021	

The losses of the British army in the Peninsular campaigns swelled those of the service generally to a greater annual amount ; and if we take the average losses among 100,000 men upon the last six years only, instead of upon the whole war, we shall find the result to be as follows :—

Mean strength . . . . .	173,158	
	Annual Loss.	Per 100,000.
By Deaths . . . . .	12,356	7,136
Discharges . . . . .	3,618	2,089
Desertions . . . . .	4,579	2,644
 20,553	 11,869	

With reference to the recruiting of the British army, (Dupin, *Force Militaire, &c.*) exclaims—"Strange, that at the epoch when the French army required for its recruitment, one year with another, nearly 150,000 men per annum, the English army needed but 23,000, and that this small number sufficed not only to cover all losses, but to increase the effective strength of the forces by about 7000 men annually. After experience acquired in the labour of the conscription," he adds, "the French Ministers could not conceive it practicable to maintain the efficiency of a body of troops with a less proportion than one-fifth of the whole to repair annual losses. If we reflect," says he, "upon the different modes employed by the English Government to supply all the wants of the soldier, and upon the prudence of military commanders, who never demanded more from the strength of the man than should form the reasonable limit of his efforts and privations, we shall cease to be surprised at the comparatively trifling losses of the British armies."

The French army consists at present (1840) of about 400,000 men; and as the duration of service is seven years, an annual contingent of one-seventh, or 58,000 men, is required; but for deaths, desertions, and disabled men who do not complete their term of engagement, about one-twentieth, or 20,000, may be added; consequently, the annual levy usually amounts to about 80,000 men. About one per cent. per annum in a population reaches twenty years of age, the age of conscription; and the French army annually calls out about 80,000 out of 290,000 who attain the required age.

The following statement will shew the annual ratio of mortality which occurred in the British army for ten years, or from 1819 to 1828, during a period of peace:—

Where Employed.	Mean Strength.	Annual Mortality per 100,000 men.	Annual Mortality per 1000.
At Home . . . . .	47,061	1,500	15
Foreign Service . . . . .	53,153	5,700	57
Total . . . . .	100,214	3,740	37

The relative mortality of the periods of war and peace may be thus stated:—

Periods.	Years.	Annual Mortality per 1000.
1804—1813 (War) . . . . .	10	59
1808—1813 (War, Peninsular Period) :	6	71
1819—1828 (Peace) . . . . .	10	37

The average annual mortality of males between the ages of twenty and forty in England is about 10·7 per 1000; consequently the mortality in the army, during peace, is a little higher than three times that of men of the same age in civil life.

The annual number of recruits required to supply the vacancies which arise from deaths, discharges, and desertion, during peace, may be estimated at about 11,000 or 12,000 men. This conjecture is rendered probable by the circumstance that in the Army Estimates for the current year (1841), credit is taken for levy money of 10,500 recruits, at an average of 5*l.* 5*s.* each.

It appears by a Parliamentary return, that, on the 1st of January, 1840, there were the following number of English, Scotch, and Irish non-commissioned officers and privates in the British Army :—

English . . .	47,394, or 34 per 10,000 of the population, according to the census of 1831.
Scotch . . .	13,388, or 51 per ditto.
Irish . . .	39,193, or 51 per ditto.

The Foot Guards are chiefly recruited in England, there being only about 10 per cent. Scotch and 1½ per cent. Irish.

A.D. 1816 (15th January).—Bounty for life, 5*l.*; limited service, 3*l.* 14*s.*

An Act of Parliament was passed (57th Geo. III.) which enabled the King to grant a commission in the army, navy, or marines, without previously requiring the person to take any oaths, or make any declaration, by which means no exception was made in filling all ranks of the army on account of religion. From the Revolution of 1688, until this Act was passed, not a single Roman Catholic had been promoted to the rank of a General Officer in the British army.

Liberty of conscience in the army was greatly extended in July 1839, when the following General Order was issued from the Horse Guards :—"Commanding Officers of regiments and dépôts will be particularly careful that no soldier, being a Roman Catholic, or of any religious persuasion differing from the Established Church, shall be compelled to attend Divine Service of the Church of England, and that every soldier shall be at full liberty to attend the worship of Almighty God, according to the forms prescribed by his own religion, when military duty does not interfere."

During the month of March 1841, the Secretary at War (Mr. Macaulay) fully agreed in the House of Commons "to the principle that, whatever opinions they might hold with regard to reli-

gious establishments, there could be no doubt that if we would beat up for recruits in Catholic countries, and place men, strongly attached to the Church in which they had been brought up, to fight our battles in the midst of Pagans and barbarians, and get wounded and killed in our service, it was our duty, as far as we could, to provide them with the comforts of their religion." The army may now be said to possess full religious liberty, or at any rate, as much liberty in that respect as is enjoyed by the civil population of this country.

It is obvious that the army has been frequently recruited by very harsh and unwarrantable measures—sometimes by pressing men, and at other times by a system of fraud and deception—and that these unjustifiable practices met with little or no discouragement from persons in authority. When Mr. Wyndham brought in his Bill in 1806, the Opposition strongly reprobated the language held by the Ministerial side of the House of Commons against the employment of crimps, and the other artifices used in recruiting, shewing pretty clearly that the deceptions employed to procure recruits had not been discountenanced by heads of departments. Means of a different kind appear to have been occasionally resorted to for the purpose of procuring recruits for the navy, although equally unwarrantable, as the subjoined advertisement, copied from the *Jamaica Courant*, will shew:—

June 1816.—Wanted, in consequence of the great promotion of Warrant Officers since her arrival at Port Royal only three months ago, *a few able-bodied SEAMEN*, who are able to fill the present vacancies of Petty Officers, and who will be sure of obtaining comfortable livelihoods, by entering on board the SALISBURY early, where they will have plenty of *liberty to go on shore* to enjoy themselves, and, whilst on board, as much *dancing to a first-rate band* every night with the PORT ROYAL LADIES as they can stand to. *And, as a further encouragement for good men to enter*, the Commander-in-Chief has authorised me to offer *a bounty of 1l. 1s. a head* out of his own pocket, upon approved seamen, to drink with his messmates and YOUNG LADIES to the health of the KING—God bless him. Huzza! Huzza! Huzza! —————, Flag Captain.

I have omitted the signature of the Flag Captain, as I hope the above production was not his composition. Had proper measures been adopted for procuring men, an address so subversive of good morals and good discipline as the above advertisement, might no doubt have been avoided.

1st December.—Bounty to recruits for life, 3*l.*; limited service, 2*l. 8s.* Government allows 1*l. 1s.* for the enlistment of each recruit who is finally approved at the regiment for which he is

enlisted, namely, 15s. to the Sergeant and party, 5s. to the sub-divisional officer, and 1s. to the clerk of the attesting magistrate.

A.D. 1829.—The following memorandum, which is still in force, was issued from the Horse Guards:—

## *Recruiting Department.*

**Horse Guards, 18th April, 1829.**

The General Commanding-in-Chief desires that the enlistment of recruits for limited service be discontinued until further orders.

By General Lord Hill's command,  
(Signed) H. TAYLOR, A.-G.

Every recruit who enlists at present, replies in the affirmative to the following question:—

Are you willing to be attested to serve in  
of \_\_\_\_\_ until you shall be legally discharged? regiment

On the 14th November this year, Sir Henry Hardinge's Pension Warrant was promulgated. The regulations consequent upon this Warrant, laid down the important principle, that long and good service should be the criterion of reward, and that disability without a considerable length of service, should be pensioned as seldom as possible. The Warrant sanctioned also certain conditions under which soldiers may be allowed to purchase or obtain their discharges; the limitations and terms of these free discharges, somewhat modified by a Warrant of 1839, will be given in a subsequent page. The plan of granting discharges by indulgence without pension, was obviously an excellent measure, and very important consequences were expected from it. By the system of free discharges without pension, it was confidently anticipated that discipline would be improved, and that the army would become more popular in proportion to the facilities of getting out of the service. As nothing tended to make parents and families more averse to allow their sons to enlist, than the feeling that their children were doomed for the remainder of their lives to be retained in the army, so it was expected that obedience would be more cheerful, and soldiers would be more contented, in consequence of the hope and prospect they had to leave the service. Had the provisions of this Warrant been liberally acted upon, there is no doubt that many of the beneficial anticipations would have been fully realised.

A.D. 1833.—On the 7th February, a new Warrant, usually called Sir John Hobhouse's Warrant, was published. The great object of the Warrant of 1829 was to pension service, and not

alleged disability ; but the Warrant of 1833 was obviously calculated, in some of its provisions, to revive the principle, that disability should, in some measure, be the standard of a soldier's claim to a pension.

A soldier who has enlisted under the present regulations, cannot demand his discharge as *matter of right*, with or without a pension, after any period of service, but discharge may be granted—

I. *On account of incapacity for further service.*—It is the usage of the service to discharge alleged inefficient soldiers, or men who are considered not likely to become good soldiers, without a permanent pension, unless when a soldier is discharged in consequence of the reduction of the regiment to which he belongs, after a service of twenty-one years in the infantry, or of twenty-four in the cavalry, in which case he may hope to receive 6d. a day ; but this amount will in some measure depend upon his merits as a soldier. Many men are discharged in consequence of alleged moral or physical disabilities, much against their own wishes.

II. *In consequence of reduction of the military establishment.*—Soldiers who are discharged in consequence of reduction of the establishment, under twenty-one or twenty-four years respectively, are not entitled to a pension.

III. *As an indulgence, upon certain conditions.*—Men of good conduct may be permitted to purchase or to obtain free discharges at their own request, on the following terms ; but in all such cases the number of men to be annually discharged, and the selection of the individuals, shall be governed by such instructions as the Commander-in-Chief, or Master-General of the Ordnance for that department, may give from time to time, for extending or limiting the numbers, or wholly suspending the permission, according to circumstances.

*Terms of Discharges, according to the Warrant of 1839.*

		Cavalry.	Infantry.
Under 5 years' service . . . . .		£30	£20
After 5 years' service, 2 years' absence from the Defaulter's Book	25	18	
After 7 years' service, one distinguishing mark	20	15	
After 10 years' service, one ditto	15	10	
After 12 years' service, one ditto	10	5	
After 14 years' service, one ditto	5	free	
After 16 years' service, one ditto	free, with the right of registry for deferred pension of 4d. a day.		
After 16 years' service, two distinguishing marks, having possessed the second at least 12 months, free, with the right of registry for deferred pension of 6d. a day.			

The deferred annuity commences upon a man attaining sixty years of age ; consequently, a man who has been discharged at

thirty-four years of age, and who may have served sixteen years, with one mark of good conduct, would require to live twenty-six years after being discharged, before he can receive 4*d.* a day, being the amount of the benefit or award conferred by the right of registry.

The probable effect of the unobstructed operation of this regulation will be, that well-conducted recruits and young soldiers, who have wealthy friends, and who may wish to leave the army, will find little difficulty in being discharged; and that soldiers whose relations are comparatively poor, and whose conduct is but indifferent, will be unable to obtain a free discharge until life is considerably advanced, and much too late for them to acquire a profession or trade. One circumstance may be mentioned:—as a soldier cannot claim his discharge at any time as a matter of right, he is never cheered by the certain expectation of obtaining his freedom after a specific period; and when he is permitted to purchase his discharge, he receives his liberty as an indulgence or boon, which boon he knows will not be granted when it is considered inexpedient by Government.

To grant permission to soldiers to purchase their discharge, as has been well observed by an old officer, is one thing—to provide them with the means of doing so, is a much more important and quite another matter. In a military community, where there are so many who cannot raise money to the extent required, any order or warrant granting permission to soldiers to purchase their discharge, is but too apt to produce heart-burnings, disgust of the profession, and ultimately desertion. The best remedy would in this case be, to establish a compulsory retiring fund or savings' bank, whereby every soldier who enlisted after a specified date, should be made to submit to a temporary stoppage of twopence per diem of pay during the first seven years of his service, and thereafter of one penny a day until discharged. These sums laid out at compound interest, would yield to a soldier on being discharged in seven years, 2*l.* 15*s.* 2*d.*; consequently, a man would by this means be able to purchase his discharge within a very moderate period, and have a few pounds to enable him to proceed to whatever place he intended to fix his residence in. The obvious advantages of this fund would be, that desertion and other military delinquencies would become much less frequent; and with respect to the permission to purchase discharges when the Warrant was in full operation, every infantry soldier, whether of good or bad character, would be enabled to name the day on which he might,

if he chose, demand his discharge, not as a favour, but as a matter of right, on complying with the rules and regulations relative to the sums to be paid for it.—(*Vide The Soldier's Library*, Leeds, 1838.) It is of the utmost importance for the welfare of men who are discharged, that they should possess a little money to carry them home, or to some place where they can obtain work. Sometimes they leave a corps little better than mendicants, not possessing more than a few shillings. I have seen men whose friends had remitted the requisite sum to purchase their discharge, who were obliged to re-enlist before a week had elapsed, they not having had any money to enable them to join their friends, or to provide them with the means of subsistence.

The British army is at present serving under several Warrants or Contracts, but principally under two ; the leading terms of both I have subjoined.

*Sir Henry Hardinge's and Sir John Hobhouse's Warrants contrasted, the principal item of each being placed in juxtaposition.*

WARRANT, 1829.

By Sir Henry Hardinge's Warrant, a good soldier might solicit his discharge after twenty-one years' service, and receive 10*d.* a day for life.

[These observations refer exclusively to the infantry ; cavalry soldiers require to serve three years longer than the infantry, to entitle them to the same privileges and pension.]

A soldier who is discharged after twenty-one years' service, in consequence of being permanently disabled, is entitled to receive 1*s.* a day for life ; after twenty-six years, 1*s. 2d.*

A soldier who is discharged in consequence of a permanent disability, after fourteen years' service, and under twenty-one, is entitled to receive from 6*d.* to 9*d.* a day for life.

WARRANT, 1833.

By Sir John Hobhouse's Warrant, a good soldier might solicit his discharge after twenty-five years' service, and receive 6*d.* a day for life. Consequently, he is required to serve four years longer, and receives 4*d.* a day less than by the Warrant of 1829.

Under similar circumstances, a soldier, after twenty-one years' service, is entitled to receive,

If able to work,		Unable to work,
6 <i>d.</i> a day.		9 <i>d.</i> a day.
After twenty-five years,		
9 <i>d.</i> a day.		11 <i>d.</i> a day.

Under similar circumstances, a private may receive from 6*d.* to 8*d.* ; a Corporal, having served seven years as such, from 7*d.* to 9*d.* ; a Sergeant, having served five years as such, from 9*d.* to 1*s.*

[These cases are, however, to be deemed special, which require the sanction of the Secretary at War.]

A Sergeant who is discharged at his own request, after having served twenty-one years, will receive a pension of 10*d.* a day ; a Corporal, 6*d.* a day ; and a private, 4*d.* a day less by the Warrant of 1833, than by the Warrant of 1829, and also have to serve four years longer.

The pensionary regulations which were issued in 1685 and 1689, were much more liberal to soldiers whose health and

efficiency had been impaired in the army, either from wounds or long service, than the Warrant of 1833. It would appear by the Order of 1689, that a private soldier who had served twenty years was entitled to claim his discharge from the service, with a permanent pension of 5*d.* a day.

The great object of the Warrant of 1829, as has been already observed, was to pension service, and not alleged disability. The duration of service may be accurately ascertained ; but it is sometimes extremely difficult to ascertain the existence, and to appreciate the disabling degree of an alleged infirmity, or to decide upon its permanence. Disabilities are easily feigned, and in many instances it is no easy task to detect a malingerer, but commonly it is still more difficult to render one a useful soldier.

According to Lord Howick's Warrant, a soldier whose name has not been inserted in the Defaulters' Book for a specified period, is entitled to wear a ring on his arm, and to have 1*d.* a day additional pay for good conduct ; and after twenty-one years he may thus have 3*d.* a day additional pay. Mr. Wyndham gave 2*d.* a day additional pay for service after fourteen years ; Lord Howick gives it for good conduct. The administration of Lord Howick's Warrant depends almost entirely upon the discretion of a commanding officer ; and consequently a soldier can never calculate, with any degree of certainty, that his good name will not be tarnished—a circumstance which may deprive him of his additional pay. We can easily suppose that an excellent, brave, and distinguished soldier, who has a mark, and receives additional pay, may commit some act of momentary folly, by which he may become subject to a punishment beyond six days' drill, or seven days' confinement to barracks, according to the decision of his commanding officer, when his name must be entered in the Defaulters' Book ; the consequence of which will be the loss of his good-conduct mark, the loss of his additional pay, together with the loss of a prospective addition to his pension when he comes to be discharged.

Sir Henry Hardinge took away pay for habitual drunkenness, but only by the solemn decision of a court-martial ; and he introduced into the Mutiny Act and Articles of War, a list of crimes for which a soldier could be tried for *disgraceful* conduct, and discharged without a pension. At the same time, with the view of rewarding meritorious soldiers, his warrant directed that a gratuity should be given annually to one non-commissioned officer and one private in every regiment of 700 rank and file, and

upwards. The gratuity to a Sergeant is 15*l.*, Corporal 7*l.*, private 5*l.* Soldiers to whom a gratuity was awarded, were entitled to receive a silver medal, having on one side of it the words, "For long service and good conduct," and on the other side the name and rank of the soldier.

How far the Warrant of 1833 may have discouraged the recruiting, and impaired the discipline of the army, I have no means of ascertaining. The same improvidence and disregard of the future, which induces a youth to become a soldier, prevents him from thinking about a pension, when he enters the service, and consequently the recruiting of the army may be less affected by the reduced rate of pensions than might be anticipated. It is, however probable, that discontent and desertion may have increased among privates since the promulgation of this Warrant. Recruits seldom, I believe, think of pensions; but soldiers who have served ten or twelve years, deliberate much on the subject; and as those who have enlisted subsequently to 1833, must consider themselves less liberally rewarded than men who enlisted before that period, it is not improbable that dissatisfaction and disgust with the service may be thereby excited. In the event of the breaking out of a war, and a large augmentation of the army being necessary, a higher rate of pension will be required, not only to the men who then enlist, but to all those who have enlisted since 1833. A similar result has already taken place; for prior to the year 1806, the amount of pensions to all the pensioners, except those having the King's letter, was 4*3d.* a day; but in that year a general revision of the list took place, and all who were upon it were placed upon the new rates of pension, according to the greatly improved provisions of Mr. Wyndham's Act.

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## CHAPTER II.

### E N L I S T M E N T.

By the 36th clause of the Mutiny Act, any person who has received enlisting money from a military man employed on the recruiting service, is considered as having enlisted. After the lapse of twenty-four hours from the time of such enlistment, but not later than four days, Sunday not included, he may be brought before a Magistrate, when, if he declares that he has voluntarily enlisted, the Magistrate is directed to put certain questions to him concerning his name, age, &c., and then to read to him the Articles of War relating to mutiny and desertion; after which, the following oath is administered to the recruit:—

I, ——, do make oath that the above questions have been separately put to me; that the answers thereto have been read over to me; and that they are the same that I gave, and are true.

I do also make oath, that I will be faithful and bear true allegiance to Her Majesty, her heirs, and successors, and that I will, as in duty bound, honestly and faithfully defend Her Majesty, her heirs, and successors, in person, crown, and dignity, against all enemies, and will observe and obey all orders of Her Majesty, her heirs, and successors, and of the Generals and officers set over me.

So help me God.

Witness my hand,

Sworn before me, at  
this      day of      }      Signature of the Recruit.  
              one thousand eight      }  
hundred and      }      Witness present.

Signature of the Magistrate.

The Justice or Magistrate then gives the officer a certificate, attesting that all the forms prescribed by the Act have been duly complied with, and hence this document has obtained the name of an *attestation*. If a recruit refuses to take the oath within four days, he may be imprisoned until he does so. It is, I believe, a very rare circumstance for a man to be confined for declining to take the oath, but instances of refusal have sometimes occurred, in which case the refractory individuals have been forwarded to the regiment into which they enlisted without being attested.

A recruit cannot be legally attested later than four days after he accepts the symbol of enlistment—enlisting money. By the 79th clause of the Mutiny Act it is enacted, that any person

taking a false oath, in any case wherein an oath or declaration is required to be taken by this Act, shall be deemed guilty of perjury, and liable to the pains and penalties which may be in force at the time against persons who are convicted of corrupt perjury.

A case of this kind happened in April 1841. A man enlisted in the Artillery, and swore, when he was attested, that he had never served in the army or Marines; but it was subsequently discovered that he had served in the Marines, and had been discharged in consequence, as alleged, of "palpitation of the heart." He was brought before a Justice of the Peace, who committed him to jail as a rogue and vagabond for fourteen days, which punishment might have been extended to three months. "A recruit who has been duly enlisted and sworn, is not to be dismissed the service without a discharge granted in compliance with the General Order on that head, which may be in force at the time of granting the discharge."—(*Rules and Articles*, 114.) Consequently, when a man has been attested, a Justice of the Peace has no longer any power to liberate him.

But as the young and simple may be inveigled by illusory promises, or persuaded, when deprived of judgment through ineptitude, to enlist, it is provided by the 37th clause of the Mutiny Act, that if a recruit wishes to withdraw from the engagement into which he has entered, he may, when taken before a Magistrate to be attested, declare his dissent from such enlistment; and upon making such declaration and returning the enlisting money, and also paying the sum of 20s., together with the full amount of subsistence and beer money which may have been incurred on his account, he is to be forthwith discharged, and set at liberty. He may declare his dissent to the Magistrate, and if after so doing, he pay the requisite expenses within the space of twenty-four hours, he is to be discharged in presence of the Justice. He has by this means twenty-four hours for deliberation, after having declared his dissent to a Magistrate. Should a recruit fail to pay such money as aforesaid, he is to be deemed and taken to be enlisted as effectually as if he had given his assent before a Magistrate.

In the 3rd clause of the Mutiny Act it is stated, that no man who has enlisted as a soldier is liable to be arrested on account of any process for leaving a wife or child chargeable to a parish, or on account of any debt under 30*l.*, or by any process other than for some criminal matter. Dr. Burns (*Justice of the Peace*) observed, in one edition of his work, that he thought a soldier could not be apprehended by a justice-warrant for begetting a bastard

child, and committed to abide the order of the Justices ; but since that time the contrary has been determined on appeal by several decisions of the English Courts. In one case, Lord Kenyon delivered the opinion of the Court as follows :—“The case *King v. Archer* was decided on grounds perfectly satisfactory to me. There can be no doubt that incontinence is a *crime*, and it has always been considered as such in the Ecclesiastical Courts. Now, this clause in the Mutiny Act is clearly confined to civil actions.”—(*East*, vol. 5, 156.)

The enlistment of foreigners is permitted, provided that in every regiment, battalion, or corps, their number shall not exceed the proportion of one to fifty of natural-born subjects.—(1 Vict., c. 29.)

At present (1840), the bounty which a recruit for the cavalry receives, in cash and necessaries, is 3*l.* 9*s.* 6*d.*; infantry, 3*l.* 17*s.* 6*d.* Neither of these sums is adequate to purchase the necessaries which he requires ; hence he is frequently in debt for a year or more, and while he is so, his surplus pay, after paying for provisions, seldom exceeds one penny per day. A soldier’s *kitt* will cost about 5*l.*, and many a recruit deserts on account of his surplus pay being much reduced.

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### CHAPTER III.

#### PHYSICAL AND MORAL QUALITIES OF RECRUITS.

SINCE the beginning of the present century, much care has been taken that none but able-bodied men should be admitted into the army. As an evidence or measure of strength and efficiency, recruits are required to be between the ages of eighteen and twenty-five, the minimum height being seldom below five feet five and a half inches; and I believe that, for a long period, no recruit has been admitted into the army without being examined and approved by a medical practitioner, and generally by a medical officer. A code of instructions to medical officers, in regard to the inspection of recruits, was officially promulgated by the Adjutant-General, in 1821, and another, from the War Office, on the 30th July, 1830. These instructions were revised, and again issued from the War Office on the 1st February, 1845.

The following very interesting table, communicated to the Editor of the *Statistical Companion*, by W. B. Brent, Esq., F.S.S., shews the comparative height of the soldiers in the British and French armies, in proportions of 1000:—

Height.	British Army.	French Army, on the authority of M. Hargen- villiers.
Ft. In.		
5 1	..	62
5 2	..	156
5 3	..	187
5 4	..	178
5 5	4	152
5 6	114	107
5 7	180	69
5 8	252	49
5 9	184	22
5 10	128	9
5 11	73	5
6 0	40	2
6 1	15	1
6 2	7	..
6 3	1	..
6 4	1	1
6 5	1	..

In connection with this subject, the following information relative to the native infantry in India is highly interesting.

By a General Order issued by the Commander-in-Chief, dated 9th January, 1809, no Sepoy was to be entertained in the Anglo-Indian army, who is not five feet six inches high, and who is under sixteen or above thirty years of age, unless, in the latter case, he shall have served before. It is presumed that this rule has never been much departed from. The following abstract shews the average height and weight of the non-commissioned officers and Sepoys in each company of a regiment of Bengal native infantry and a regiment of Madras native infantry—(*Foreign Quarterly Review*, vol. xxxiii., p. 397) :—

	Bengal Native Infantry				Madras Native Infantry			
	Height.		Weight.		Height.		Weight.	
	Ft.	In.	St.	lbs.	Ft.	In.	St.	lbs.
Grenadier Company .	5	11	10	3½	5	8½	8	7½
1st Battalion Company	5	8½	9	2	5	6½	7	10½
2nd ditto	5	7½	8	12	5	5½	7	3½
3rd ditto	5	8	9	3	5	6	7	10½
4th ditto	5	7½	8	10½	5	5	7	13
5th ditto	5	7½	9	0½	5	6	8	2½
6th ditto	5	7½	9	0½	5	6	7	2½
Light Company . .	5	7½	9	0½	5	5½	8	4½
Average .	5	8½	9	3	5	6½	7	13½

In the General Order which was issued in regard to the recruiting department (July 1839), the General Commanding in Chief intimated to inspecting Field Officers and Surgeons of recruiting districts, that he will not fail to notice, in the strongest and most effectual manner, any inattention to, or disregard of the instructions with respect to *shape, actirity, and stamina*. I do not recollect having seen any specific instructions to officers on the recruiting service upon these points. The words shape, activity, and stamina, so far as I know, were first employed with reference to the selection of recruits, in a General Order bearing date 1st October, 1823, but unaccompanied with any remark or explanation, to assist either a military or medical officer to comprehend their practical import.

The essential qualifications of a recruit are health, strength, and a soundness of the functions of the various parts of the body; as to his mind it is considered sufficient if he be deemed capable of being taught the duties of a soldier. No enquiry is made in regard to intellectual culture, and none, in general, with respect to moral conduct. Moral delinquencies have not hitherto dis-

qualified recruits for the army. As has been stated in the *Report on Military Punishments*, when any number of recruits are wanted upon an emergency, great nicety as to character is evidently impracticable ; and, therefore, the usual practice of omitting to make any enquiry as to the moral character of a man is, perhaps, an expedient measure—every recruit who is physically fit being supposed to have a sufficiently good character for the army. It would serve no useful purpose to desire a man to give himself a character, or to ask him to detail his delinquencies, unless it was intended that they should have some influence in qualifying or disqualifying him for the service. When Sir John Macdonald was asked by the Chairman of the Commission on Military Punishments, whether any pains were taken to ascertain the previous character of a recruit, he made the following reply :—“No pains can be taken. The number of recruits required to keep up the establishment of the army is so great \* \* \* that it would be utterly impossible to make previous enquiries into the habits, conduct, or general character of every recruit.”

For a period of twenty-four years, or from 1806 till 1829, enlistment for a limited period was sanctioned ; but, even while that permission existed, the great mass of recruits who never reflect, preferred enlisting for an unlimited period—in fact, for life.

However revolting it may be to individuals of the middle and higher classes of the population to surrender irretrievably their independence for life, and tacitly and implicitly to submit to the will of others, recruits, who belong chiefly to the labouring or poorer classes of the population, appear to think little on the subject ; or, at any rate, they seem to contemplate a permanent loss of personal liberty without concern or with great indifference. Folly and misery, the usual precursors of enlistment, are almost incompatible with prudence and consideration. “In nine cases out of ten,” says Colonel Middleton, “it is necessity which induces men to enlist.”—(*Evidence on Military Punishments*, Quest. 3195.) The lower we descend in the social scale, the greater is the recklessness of conduct, and the less is the regard to future consequences : no class of the population dreads poverty so little as the indigent.

In France, the law does not sanction a voluntary surrender of liberty for an unlimited period, or during life, as, by the Civil Code, “*it is forbidden to any one to contract an obligation by which his independence and liberty are alienated.*”—(*Vide Articles 1131, 1133 ; 1780.*) The late Dr. Jackson, who had a long and

intimate acquaintance with the habits of soldiers, says, “If the British people be actually free to dispose of themselves, no people in Europe give up the power of doing so, for a bribe of money, with so much readiness as the peasant or artisan of the United Kingdom.” “The English army,” says Bulwer (*Monarchy of the Middle Classes*, vol. ii., p. 245), “is recruited by volunteers from the working class of England—that is to say, it is from the most destitute of a class, the great bulk of which is in a miserable state, and removed almost altogether, as well from the habits as the feelings of their country, from rising much above their native condition. A soldier,” he adds, “is exposed to a life of much hardship and much constraint : to this he submits if he is paid, because, as a peasant, he would also have been subjected to severe toil and much constraint.”

The middle classes often suffer much from their improvidence and vices, and the poor are too depressed or too inert to make a great effort materially to better their condition : they seldom duly estimate the value of civil liberty. The colliers and salters of Scotland were bondmen until the year 1775, and they felt no gratitude upon being emancipated ; they were not, indeed, sensible of the benefits conferred upon them, and attributed the kindness of their former masters, in promoting their liberation, to unworthy and interested motives.

Orphans, or infants at fourteen years of age, may enlist for life in the English army ; and a considerable number of recruits are procured from the boys in the Royal Military Asylum at Chelsea, and the Royal Hibernian Military School at Dublin. During the war there were upwards of 1250 in the Military Asylum, and upwards of one-half of the boys went into the army. A late Order on this subject directs, that boys enlisted into the cavalry or infantry must, in every instance, be attested for *unlimited service*. “Fourteen years is the prescribed age for the admission of boys, except under very special circumstances.”

Dr. Kay, in a Report upon the Amended Poor Law, says, “if the army and navy were recruited by the workhouse children, it is evident that it would be the interest of the State to rear a race of hardy and intelligent men, instructed in the duties of their station, taught to fear God and honour the Queen ; but,” he adds, “it may be questionable how far it would be proper to permit the pauper children to volunteer for service in the army and navy.” I cannot help thinking that it is an unwarrantable perversion of liberty to permit an infant of fourteen or fifteen years of age,

whether with or without the sanction of his parents or guardians, to contract an obligation by which he surrenders his independence for life.

A.D. 1843-44.—Among the *Parliamentary Papers* of the last session was one moved for by Mr. Hindley, forming “Returns of all children who had been removed from union-houses into the army and into the navy; distinguishing the two classes, their names, their ages, names of unions from which removed, and date of such removal, and whether by the consent of their parents or not.” It appears from the summary that the number removed from unions in England (none having been removed from Wales) was 271, of which 132 went into the army, and 139 into the navy. The age of 137 varied from 10 to 15, and of 134 from 15 to 20. From the Bedford Union, 1 was removed with the consent of parents; from Berks 1, an orphan; from Cornwall 2, 1 an orphan, and the mother of the other was dead, and the father, living at a distance, was not consulted; from Devon 11, of whom 5 were removed with the consent of parents, and 6 with their own consent; from Essex 4, 3 were orphans, and the parents of the other consented; from Hertford 4, 3 were orphans, and the father of the other had deserted him; from Kent 138, of which number 54 were orphans, the parents of 53 consented, 7 were deserted by parents, 2 run away, 3 at their own request, and of the remaining 18 no return was made; from Middlesex 1, with the mother’s consent; from Southampton 71, of whom 28 with the consent of parents, 39 with their own consent, and 1 had deserted; from Suffolk 3, who were orphans; from Surrey 8, 6 with the consent of parents, and 2 were orphans; from Sussex 23, 7 with the consent of parents, 15 were ophans, and 1 deserted; and from Wilts 4, of whom 3 went into the navy, and of the other no statement was made.

There are upwards of sixty-one unions, including the city of London, from which no returns were received. This harsh mode of treating pauper children appears by the returns to be chiefly confined to the three counties of Kent, Southampton, and Sussex.

Napoleon says (*Memoir*, dictated to the Count Montholon) that the “soldiers of the British army are of such a description that only middling non-commissioned officers can be drawn from the ranks, whence they are obliged to multiply their officers beyond all proportion.” As men, the soldiers of the British army are, perhaps, unrivalled, but certainly much cannot be said for their scholarship. Armies which are recruited by conscription uniformly

receive a considerable portion of the respectable and educated class of population. "The conscription in France," says Colonel Campbell (*Army as it was, is, and ought to be*), "brought more knowledge into a single French regiment than there was to be found in a whole division of the English army." What is most to be regretted is, that the inefficiency of the soldiers, in as far as education is concerned, is not sufficiently recognised or acknowledged, so as to lead to adequate measures for remedying the evil. As a large portion of the men who enlist are quite capable of being taught, it may be asked, why are means not adopted to teach them, so as to qualify them to be efficient non-commissioned officers, and eventually useful and intelligent members of society? We complain that it is difficult to get good non-commissioned officers, and still we take no effectual steps to give a majority of the men the requisite instruction to qualify them for promotion. Hence non-commissioned officers are selected chiefly because they have acquired the mechanical art of writing, not in consequence of their native talents, integrity, and trustworthiness. Every regiment contains a number of good men, excellent soldiers, who are deemed unfit for performing the duties of non-commissioned officers solely from a want of education, and who can never expect to be anything but privates. But such is the value of native intellect, honesty, and industry, that men are sometimes appointed to the rank of non-commissioned officers who are so illiterate as to be unable to write.

Considering the class of the population from which the army is chiefly recruited, I am disposed to believe that from thirty to fifty per cent. of the men who enlist are unable to read with profit and satisfaction, or, at any rate, without much difficulty. This conjecture is rendered highly probable by the following statistical facts regarding the degree of scholarship of several classes of the population. It has been ascertained, by reference to the Registrar-General's returns, that of 100 men who marry in England, the number unable to write is thirty-three; among 100 women, forty-nine; the mean number being forty-one. Their inability to write is assumed from having affixed their mark, instead of their signature, to the registers in which their marriages are recorded.

It has also been ascertained that the degree of instruction among persons charged with offences in England, for the four years, 1836-39, has been, per cent., as follows:—

	1836	1837	1838	1839
Unable to read . . . . .	33	35	34	33
Able to read and write imperfectly . . . . .	52	52	53	53
Able to read and write well . . . . .	10	9	9	10
Instruction superior to Reading and Writing . . . . .	..	..	..	..
Instruction not ascertained . . . . .	2	2	2	2

The uniformity of the results in different years in this statement is very remarkable. The county which shews the lowest degree of scholarship is Hertford, where fifty-five of every 100 persons committed can neither read nor write. Westmoreland shews the highest,—only twelve per 100 can neither read nor write.

As a considerable portion of the recruits for the army are enlisted in Ireland, it may be proper to state, as far as can be ascertained, the degree of instruction which obtains in that division of the United Kingdom.

The number of persons charged with offences in Ireland, in the year 1836, amounted to 23,891.

#### *Degree of Instruction.*

	Total Number.	Centesimal Ratio.
Unable to read . . . . .	10,030	42
Able to read . . . . .	4,810	21
Able to read and write . . . . .	7,234	30
Instruction not ascertained . . . . .	1,817	7
	23,891	100

Thus it appears, that among 100 persons (men and women) who marry in England, forty-one are unable to sign their names; and among 100 individuals (men and women) committed for trial in Ireland, forty-two are unable to read. The same absence of education among criminals of the lower orders is shewn by the following statement for the Metropolitan District, where a better-instructed class might be expected.

Number taken into custody . . . . .	70,717
Unable to read . . . . .	23,938 or 33·8 per cent.
Able to read and write imperfectly . . . . .	37,551 , , 53·1 , ,
Able to read and write well . . . . .	8,121 , , 11·5 , ,
Superior instruction . . . . .	1,107 , , 1·6 , ,
	70,717 , , 100·0 , ,

As a general result, it has been found, that in Liverpool, Manchester, Birmingham, and a number of other large towns in

England, about one person in twelve received some sort of daily instruction, but only about one in twenty-four an education likely to be useful. In Leeds only one in forty-one, in Birmingham one in thirty-eight, in Manchester one in thirty-five.

Education in the factories seems to be better attended to than among some other classes of the labouring population; and as a number of recruits are procured from this class of operatives, the result of an investigation into the state of education among them is subjoined.

	Numbers taken from the Returns.				Proportion in the Hundred.			
	Read.	Cannot Read.	Write.	Cannot Write.	Read.	Cannot Read.	Write.	Cannot Write.
Scotland .	28,256	1,230	15,794	13,692	96	4	53	47
England .	43,327	7,170	21,488	29,009	86	14	43	57
Belfast .	1,473	155	725	903	90	10	44	56

These returns shew that a large proportion of the working classes in towns where factories are chiefly established can read, but where so very large a proportion is totally unable to write, it may be feared that more than thirty per cent. cannot read with ease or advantage, and, consequently, have little or no taste for reading, or for intellectual and moral improvement.—(Dr. Mitchell, *Report on the Factories*.)

On a general view of this subject, we cannot help concluding that the state of popular education is wretchedly deficient among the classes from which the army is recruited in this country, that a large portion of the recruits have made little or no progress in the acquisition of the first elements of knowledge, and that there is great room for improving their condition in this respect after they enter the army.

We understand that in the Foot Guards every recruit who joins, and who is unable to read and write, is obliged to attend the Schoolmaster's drill, but we have no means of knowing the amount of efficiency he must attain in literature before he is relieved from attendance at school: the principle is excellent, and should be adopted in all regiments of the line.

Many military officers object to the present mode of recruiting, and allege that those who are employed upon that service are not sufficiently careful to enquire into the previous conduct and character of the persons whom they enlist, and that by this means men are admitted into the army who are very prone to commit delin-

quencies. Colonel Campbell, (*A British Army as it was, is, and ought to be,*) for example, says, he thinks flogging in the British army may be done away with “by a completely new organization of our regiments, and bringing into their ranks *a totally different description of men from those who generally offer themselves as recruits—men with other ideas, and altogether other feelings.*” Does such a class of men exist? If so, where are they to be found? No doubt objectionable recruits, in as far as regards morals, are enlisted; but how is that circumstance to be prevented? Certainly not by issuing instructions to enquire into the habits of recruits, or by a shew of investigating character. A little practical experience would easily shew the fallacy of much that is stated and believed on this subject. For example, a young man of good appearance presents himself for enlistment. Of whom is the recruiting Sergeant to enquire in regard to his character?—he may be unexceptionable in every respect, but having made his escape from his friends, he does everything he can to conceal his former history. Again, what degree of moral delinquency would warrant a recruiting party to reject an efficient recruit? What is generally called a good character, namely, a character for morality and good behaviour, such as would be required for a servant or an office of trust, does not appear to be essentially necessary in a recruit. What grade of immorality would entitle a Sergeant to consider a recruit a “confirmed bad character” and sanction his being rejected? Was there ever a recruit rejected solely on account of alleged moral delinquency, unless he was known to have been convicted?

But the recruits who now enlist are, in fact, a better description of men than those who enlisted during the war, the population being generally better instructed, in consequence of the measures which have been adopted to diffuse education among the people; and this improvement we may hope will increase in proportion as civilization and intelligence extend. We are not warranted, however, in assuming that, under the present regulations, volunteer recruits will ever be of a class of the population superior to an average of the lowest grade of society. The army offers no adequate encouragement or inducement to the educated sons of individuals in comfortable situations of life to enlist. “My impression is,” says Sir John Macdonald, (*Evidence on Military Punishments, Quest. 71,*) “that the soldier’s life is wholly unsuited to what are termed the better classes of society in this country;” “few of the better classes of young men enlist in this country,

except from quarrels with relations ;” and when they do become soldiers, they are presumed by their friends to commit moral suicide.

Experience, in my opinion, completely demonstrates the fallacy of expecting to exclude what are called troublesome men from the army, by investigating moral character. Who will say that a wild uncontrollable, wicked youth may not become a gallant, excellent soldier ? By the recruiting law in France, no substitute is to be approved, unless he produces satisfactory certificates that he has not lost his civil privileges, and that he has never been convicted of theft, swindling, abuse of confidence, or any outrage against good morals. Beaupré (*Sur le Choix des Hommes, &c.*) informs us, however, that this specific regulation has not been successful in preventing very exceptionable men from being enlisted. As a measure for ridding a *commune* of idle, profligate youths, the Mayors are commonly willing enough to grant the requisite certificate, by which means the design of Government to exclude bad men from the army has been so far defeated ; and we may presume the same would be the case in the British army, if similar precautionary measures were adopted.

The Duke of Wellington expressed a very decided opinion in regard to the subject of a “better class” of recruits being induced to enter the army, in his evidence before His Majesty’s Commissioners for Enquiry into the System of Military Punishments, Quest. 5806 :—

Has any mode ever suggested itself to your Grace, by which a better class of persons might be induced to enter into the army, under the present mode of voluntary enlistment ?

I should say not. The objection to entering into the army, in my opinion, is the severity and regularity of the duty, the regularity of the discipline, and the life which the soldier is obliged to lead, and which you must oblige him to lead,—the climates to which he is exposed, and the constancy of the service in those climates. I do not think that a better description of persons would be induced to enlist than at present, voluntarily, not even for any bounty, because the amount of the bounty is no consideration. . . . I do not think any bounty would procure the service of a better description of men than is enlisted at present.

The army is unpopular in this country, not so much in consequence of the severity of military punishments as on account of the necessary restraints upon the habits of the man who becomes a soldier, and on account of the severity of the service and duties which he performs, namely, service for life, at very moderate pay,

—far from home and friends,—in unhealthy climates,—with great risk to health and life.

Count Alfred de Vigny, himself an old soldier, thus describes the condition of the army :—

The *paid man* (says he), the soldier, is a glorious pauper, victim, and executioner,—a scape-goat daily sacrificed to the people and for the people, which plays with him ; he is a martyr at once ferocious and humble, whom *power* and the nation, ever at variance, bandy from one to the other.

With the exception of the native army in India, wherever troops are levied by voluntary enlistment, the ranks are chiefly recruited by the least prudent and most destitute class of the population. Military pay being usually lower than the wages of common labourers, and far below those of artificers, industrious respectable persons rarely enlist. In India, however, this state of matters is reversed. The pay of a native soldier being from two to three times the amount of the wages of an agricultural labourer, admission into the ranks becomes an object of competition, and dismissal one of severe punishment.

There are many circumstances inseparably connected with the constitution, discipline, and services of the British army, which must ever effectually deter respectable, industrious, and tolerably well educated men from enlisting. Military discipline, for one thing, it is alleged, must be rigorous among British soldiers, they being excessively prone to commit offences, from their spirit of independence and the numerous temptations to which they are exposed. Inconsiderate lads, who enlist with the hope of being exempt from cares, or of gratifying their appetites, demand that the discipline should be strict and unremitting. Discipline, to be good, must be habitual : there must be no relaxation, even at times when the soldier is not afraid of being seen by a commissioned officer.

It is alleged that war has become less barbarous than it used to be, but the ambition or the fears of Governments have tended to perpetuate the thraldom of armies. The regulations, customs, and usages of the military force of the different states of Europe, are almost all nearly stationary ; while the population is in a progressively improving state, gradually becoming more civilized, and enjoying a more extended and better guaranteed share of the blessings of civil liberty.

The army is a mixture composed of the good, the bad, and the indifferent,—the orderly and the disorderly. The thoughtless

youth, who enlists for the purpose of resisting parental authority, is obliged to associate, in the same barrack-room or tent, with individuals who may have become soldiers to escape the consequences of a criminal or civil process; yet, these men, though differing materially in their habits and conduct, must all be placed under the same degree of restraint. The system of control or coercion cannot be greatly relaxed, to meet the cases of those whose conduct as soldiers has been irreproachable or praiseworthy. Whoever becomes a soldier must yield implicit, unquestioning obedience to his superiors, of whatever rank; he must subject himself to a total abnegation of self-will; in fine, he must submit to the discipline of the army.

In addition to the circumstances already noticed, which may deter respectable young men from becoming soldiers, another may be stated, namely, the degraded and isolated position in which a young man is placed upon entering the service. "Condemned and despised," says a non-commissioned officer in the *Naval and Military Gazette*, "by the associates whose society he has been accustomed to from earliest intimacy, shunned by his relatives, and the fond and doating mother, the kind and affectionate sister, looking upon him in much the same light as it has been my unhappy lot to witness a mother and sister parting from an embarking convict." So long as soldiers are viewed in a degrading light by the community in general, "in vain," says he, "may we look for young men of character and respectability entering the ranks, while it is known that, the moment they do so, they are out of the pale of society. The parting from home, and everything valuable and endearing, may be endured,—the prospect of ending one's days in a tropical clime, or midst the din of battle,—all these are contingencies which can be and are daily borne by hundreds—nay, thousands of soldiers. Of these he dare not complain; but the haughty contumely, the exclusive, unmerited contempt, that he daily receives, stings him to the very soul, and deeply does he feel his degradation. No wonder, therefore, that, under such galling circumstances, so many men relieve themselves from its burden by the purchase of their discharge. At this outlet escapes the most valuable and moral class of our young soldiers."

The crimes of soldiers chiefly arise from the constitution of their profession. To disregard the verbal order of a commissioned officer, or even of a non-commissioned officer—a Corporal, for example—is insubordination, and renders a man as liable to be tried by a court-martial, and punished, as if he were to commit

a breach of the Mutiny Act or the Articles of War. Soldiers are also liable to be punished for constructive offences, such as alleged disrespect to a superior officer. It is difficult, therefore, to escape from the net of military law, its meshes being closed against the exit of the minutest fry of delinquencies. A court-martial may sentence a soldier to suffer corporal punishment, not extending, however, to "life or limb, for *immorality, misbehaviour, and neglect of duty.*" The vague generalities of this article literally annul the benefits of a written code. The Chinese have a similar article in their code of laws. It is as follows:—"Whoever is guilty of *improper conduct*, and such as is contrary to the *spirit of the laws*, though not a breach of any specified article, shall be punished at the least with forty blows." In such cases the will of the Judge or Court is the law.

Well-educated persons, individuals whose parents belong to a respectable class of society, and who have undergone careful moral training, find the thralldom and usages of the service as irksome, and are as liable to military "misbehaviour," as the uneducated and low-born class of soldiers; perhaps they are, indeed, more liable to fail in respect to their immediate superiors, whose conduct they may consider arrogant or oppressive. Implicit, unquestioning obedience, is an indispensable requisite in every soldier, according to the institutions and customs of the army; and this is perhaps more irksome to well-informed men than to the uneducated.

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## CHAPTER IV.

### DURATION OF ENGAGEMENT.

EVER since the establishment of a standing army in this country, recruits have been commonly enlisted for unlimited service,—in other words, for life. The object of Government in engaging recruits for life, is obviously for the purpose of being able to command the services of men, under all circumstances, to the last hour of their existence; while it reserves the right of dismissing or discharging them at pleasure, when their services are not required, or when they are deemed unfit for the active and laborious duties of a military life.

Now, I beg to suggest the following important question as a matter of grave enquiry—Would it not be as economical a measure to enlist men for limited as for unlimited service? There can be no doubt that it would be an infinitely more humane one. I am myself disposed to think that, in a financial point of view, it is perhaps more expensive to engage recruits for life, than to enlist them for a specified number of years. This opinion is, however, admitted to be only a surmise; to arrive at a definite conclusion on the subject, would require an elaborate investigation of materials, which are beyond my reach. Volunteers for the army soon discover that the hardships and privations of a military life are much greater than their imaginations had pictured them to be, and that the thraldom of discipline is more galling than they had anticipated. A desire of emancipation frequently, indeed commonly, follows enlistment; and various means are adopted by individuals for the purpose of returning to civil life, particularly desertion and the feigning of disabilities. By the time that soldiers in infantry corps have reached forty years of age, or have served twenty years, ninety-five per cent. have commonly died, deserted, or been discharged in consequence of alleged infirmities, or by purchase. Of the troops serving in foreign stations, only from two to three per cent. are above forty years of age. That a large portion of the disabilities on account of which the men have been discharged, are not real, or at all events not calculated to shorten life, may be inferred from the circumstance, that the annual ratio of mortality among the pensioners, as appears by the numbers annually struck off the list, is only

about four per cent. The Pension List, which amounted in 1838 to about 83,861 pensioners, comprehends, it will be recollect, all the veteran invalids, and those soldiers who have been discharged in consequence, as presumed, of the more disabling infirmities,—men whose tenure of life is deemed the least secure. This ratio of mortality, four per cent. or forty per 1000, is only a very little higher than the mean ratio of that of the active army—thirty-seven per 1000—comprehending the young and the healthy; whereas pensioners are all presumed to be worn out by age and long service, or to be labouring under disabilities of a permanent character.

I have no adequate materials to enable me to state the mean duration of service of the men who enlist for the army; but I am disposed to conjecture that it is not much, if at all, above ten years. It has, I believe, been ascertained that the average length of service performed by the men now on the permanent Pension List, is about fifteen or sixteen years. Upon these grounds, I conclude that enlistment for life, as a means of obtaining an average length of service of more than from ten to twelve years, is a fallacy; and consequently I submit, whether it would not be an advisable measure to abolish enlistment for an unlimited period, and to adopt a regulation whereby a soldier might have the option of being discharged after a certain length of service, say ten years. As was formerly remarked, there is much probability that were recruits engaged for a limited period, soldiers would serve cheerfully and willingly; that there would be a great diminution in the number of desertions, and fewer men discharged for alleged disabilities, inasmuch as they would be infinitely less disposed to allege they were unfit for service, and Commanding Officers would probably be less anxious to discharge petty delinquents, troublesome men, or men whose disabilities are doubtful, or not of a very important character.

I am opposed in principle to the life-bondage of soldiers, which no doubt differs from hereditary slavery, inasmuch as their progeny are not slaves; but slaves enjoy some advantages to which soldiers have no claim. A soldier who is discharged, at his own request, under twenty-five years' service, is not entitled to any pension or means of subsistence; and under twenty-one years' service, a soldier may, by the Warrant of 1833, be discarded, as a contractor discards his labourers, without any annuity or provision for life. In countries where slavery obtains, a master is not warranted in turning away a slave, even although his conduct has

been highly reprehensible, without making a provision for him—the delinquent must be subsisted. It may be laid down as an axiom, that engagements are seldom well fulfilled where the benefits resulting from them are not reciprocal, or for the immediate or prospective advantage of both of the contracting parties. Life-bondage has, I believe, the effect of suppressing individual improvement—of, in some measure, stultifying the human mind. Why are we tenacious of liberty, but because it gives us an open field for that exertion of our minds and bodies, whence alone pleasure can proceed? And divinely is it instituted that the activity of our faculties should constitute our happiness, whilst what blesses the individual enriches the species. A recruit who enlists for a definite period, or whose contract entitles him to claim and obtain his discharge after a term of years, reserves the right of resuming, at a given time, the place he occupied among his fellow citizens, and thereby retains some portion of natural liberty. His whole period of service is cheered with the reflection that he may have it in his power to retire from the army with credit and respectability—a hope that he may resume the employment of his early years, and regain the right of thinking and acting for himself. “In former times,” says Lieut.-Colonel Campbell, (*A British Army as it was, is, and ought to be,*) “a soldier could not commit a greater offence than to presume to think or act for himself; and I remain,” he adds, “still in doubt when, or at what rank, an officer was supposed to be capable or had a right to think; and as for education, many entertained the strange notion that, beyond reading and writing, which were allowed to be useful to non-commissioned officers, the less soldiers knew the better.”

The late venerable and humane Dr. Jackson states, in his excellent work *On the Formation of Armies*, that “the soldier has no liberty to exercise his mind; and as no man can be great or even good, without exercise of mind, it is worthy of the consideration of the wise to determine how much intellectual liberty may be permitted to the soldier without danger to the sovereign authority.”

Were recruits enlisted under such terms as would give them a claim of right to be discharged from the service within a moderate period, I have every confidence that the measure would contribute materially to prevent desertion, which is the prevailing delinquency of the British army at home. The annual loss by desertion, during the war, amounted to rather more than one-half of the loss

by death, or about three per cent; and, during the year 1839, no fewer than 2110 soldiers suffered punishment on account of desertion, or being absent without leave. When so considerable a number as 2110 deserters were restored to the service, the number of desertions must have been very great. Although numerous individuals desert from thoughtlessness, or from some temporary cause, there can be little doubt that a great proportion of the soldiers who desert take this step because they dislike the service, but more especially to get quit of an engagement which has no visible limit, and to obtain better wages. It is not very surprising that soldiers should run considerable risks to exchange a weekly allowance of 7s. 7d. for one of from 15s. to 30s.,—they having no claim of right to be discharged after any period of service. There is nothing easier than for two parties to keep or to dissolve a contract, when keeping or dissolving the engagement becomes the interest of both; but a contract is preserved with great difficulty which it is the interest of one party to keep and the other to break. Desertion will, in all likelihood, continue unabated, unless the service becomes more generally desirable, more nearly equal in remuneration and respectability to the situation of artificers, and until the duration of engagement is rendered a specific and moderate period.

The subjoined return of the desertions which took place in the British army, for the ten successive years comprehended by the document, will shew the prevalence of desertion, and the extent of the evil which it is presumed enlistment for a limited period would help to remedy.

*Adjutant-General's Office, 13th November, 1813.*

Years.	Number of Desertions.	Years.	Number of Desertions.
1803	4404	1808	6611
1804	5468	1809	4901
1805	7081	1810	4729
1806	5748	1811	5026
1807	3878	1812	5918

The annual number of recruits required for the army at present may be estimated at from 10,000 to 12,000 men; consequently the desertions in 1812 were equal to half the number of recruits now levied.

## CHAPTER V.

### S U I C I D E.

SUICIDE is presumed to be more frequent in the army than among males of the labouring class of the population, between the ages of twenty and forty, in civil life. Out of 686 deaths which took place among the Dragoon Guards and Dragoons serving in the United Kingdom during a period of seven years, thirty-five, or one in twenty of the whole mortality, were occasioned by self-destruction, being in the ratio of one in 1274 of the strength. In the Prussian army, out of 1333 deaths which took place during the year 1838, sixty-seven were caused by suicide, being one in nineteen of the mortality, or one in 1821 of the strength. The means employed to destroy life in Prussia were as follows,—by fire-arms, forty-eight ; hanging, thirteen ; drowning, four ; cutting the throat, two ; total, sixty-seven.

Professor Caspar, in his work on this subject, informs us that suicide is much more frequent in the Prussian army than might be expected, considering the innumerable improvements which it has undergone. "Notwithstanding these improvements, there is," says the Professor, "something in the condition of modern barracks, in the fact, that, even at present, the majority of common soldiers must remain unmarried, bound neither by the ties of wife, nor child, nor home, which seems calculated to lead to disgust of life and suicide." Fear of punishment is supposed to be sometimes the cause of suicide in the Prussian army, and I have reason to believe that the same cause operates among British soldiers. The aim of the Prussian Government has hitherto been to awaken a high sense of honour in the army ; but, says Professor Caspar, "if a soldier must, like a slave, undergo the most disgraceful punishment, should he steal only the value of a farthing, we need not be surprised to find many hot-headed young men, under such influences, destroying themselves, rather than suffer their sense of honour to be outraged."

In 1835, there were in England and Wales 1044 suicides, which is about one to every 15,320 in the whole population, or one suicide for every 340 deaths. The frequency of suicide in military life is thus accounted for by Mr. Reid (*Philosophy of Death*) :—

Soldiers are (says he) very strictly tied down to their onerous duties,—duties which are often both very humiliating and revolting, and which they cannot get quit of in the course of their service, and which consequently, must be borne with through the greater part of their lifetime, in the gloomy and depressing prospect of being released at some distant period either by death or a discharge. It is not surprising that the human mind, under such circumstances, should resolve on its own termination, and at once put a period to its miserable consciousness of existence.

Hope (says an old Sergeant-Major, with whose sentiments I cordially concur) is not only one of the chief ingredients in the happiness of man; but man may be said to live upon hope. Hope for something or other he will. Some will have no hopes of leaving the army, but will live on the hope of promotion. The number of these must, however, be comparatively small. The chief hope of the far greater part must always be the *termination of the servitude*. Let this hope be built upon a positive engagement, and the soldier contents himself therewith, because the foundation is sure, and clear before his eyes; but if he has no such engagement to rest upon, he seeks for some other foundation, and desertion is the first that presents itself; for he must have hope, or he cuts his throat.

There seem to be certain circumstances connected with military life in the army which render soldiers indifferent to a prolongation of their existence. One example may be given:—

Private H——, belonging to —— regiment, was brought before the Captain of his company for having been drunk, and ordered the trifling punishment of two or three days' drill, when he gently struck this officer's shoulder, exclaiming at the same time, "There now is death for me." The man in question was of highly respectable extraction, and a graduate of one of the English Universities. He drew up what he intended as a defence, but was dissuaded from the avowal of the sentiments and disclosures it contained, by some benevolent persons, who thought it might operate against him. The purport of what he intended to express was this: that he had been suspected of writing a letter in a newspaper, respecting the state of the regiment, some two or three years ago, and that he had ever since undergone such unremitting persecution as rendered life intolerable, and he therefore, by the commission of this crime, hoped for death, as a termination to his sufferings. He did not name any one as his persecutor, but intended merely to remind the court, that rational beings were not in the habit of acting as he and others had done, without some cause. This man was sentenced to *eight years' imprisonment* with hard labour, and a month's solitary confinement every four months.

Had Private H—— committed suicide, instead of making a shew of striking his Captain for the purpose of being put to death, a coroner's inquest would, I think, have returned a verdict of *temporary insanity*. It is notorious that this man sought death as a release from continued suffering. The mind becomes unsettled

from mental anguish ; and whether we call that state of the intellect insanity or not, the actions are often regulated by reasonable motives. The existence of moral insanity, without any obvious intellectual derangement, can scarcely be doubted. How many murders have occurred in India, from apparently very unimportant causes, such as the excitement occasioned by the annoyance of soldiers being kept longer at drill than they deemed just or necessary, or employed at fatigue duty under a tropical sun.

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## CHAPTER VI.

### VICES AND VIRTUES OF SOLDIERS.

HITHERTO it has been too much the practice for officers to characterize the men who volunteer for the army as the very dregs of the population,—ignorant, vicious, and idle. A late writer designates them as “the rabble of England,—all that is vile and despicable in the three kingdoms,—the very scum and refuse of society.” Now, I do not think that recruits are, as a body, more ignorant, more vicious, or more idle, than the majority of the class from which they are taken, although it must be admitted that some of them become more disorderly after enlistment. But, in my opinion, it is very unseemly for officers to traduce and depreciate the character of the men who enlist. What purpose can it serve, to vilify and degrade them, except as an excuse for addressing them with asperity, or treating them with harshness? In proportion as they are ignorant, let measures be taken to instruct them: make the service more desirable, and military delinquencies will be less frequent. Desertion, which is the besetting sin of the army, will, in proportion to the improvement effected, become a rare occurrence. Good men may be made bad, but bad men will not be made good by degrading and depreciating them.

With reference to the grade of society of those who commonly enlist, I have been informed that from about fifteen to twenty per cent. in Scotland obtain a relief from enlistment by paying the smart money of 1*l.*, from which it may be inferred, that in that part of the kingdom, recruits do not generally belong to a very destitute class. In London, the number of recruits who pay smart after enlisting into the East India Company’s service is about four per cent. The folly or inconsiderateness of youth, and the difficulty of procuring the means of subsistence, are the real causes which fill the ranks of the British army. It must, however, be admitted, that the Act which remits all debts under thirty pounds is an encouragement to dishonest men to enlist for the purpose of defrauding their creditors. Great delinquents, or criminal offenders, rarely becoming soldiers; and, when persons of this class do enlist, they commonly soon desert. The alleged vicious propensities of soldiers are frequently acquired after the

individuals have entered the army, and are not taken into the service with them. A similar result is said to occur in the navy; for it has been observed, that men taken from the merchant service with a good moral character, after having been in the navy, though but for a short time, become more or less corrupted, so much so that they have afterwards great difficulty in obtaining employment in the mercantile service. In the army, it must be recollected that temptations to vice are infinitely more frequent than in the navy; and wherever temptations are great, and opportunities easy, not a few of the educated, as well as the uneducated and ignorant, will fall into error, and ultimately into vice. The constitution and usages of a standing army are unfavourable to morality, or to the decorum and prudential virtues which more or less regulate civil society, inasmuch as nearly all the men must live in a state of celibacy. Moral turpitude frequently leads to breaches of military regulations, and ultimately to punishment. "I know not," says Sir James Turner, "by what authority, for what reason, or by what instinct, men who follow the war assume to themselves a greater liberty to sin than other mortals do, as if the entering themselves in a militia did let them loose from all civil bonds and ties of human society; and that which in a commonwealth is a capital crime, were but a venial *peccadillo* in an army."

As soldiers, the men of the British army cannot be surpassed; but the usages of the service tend to deteriorate rather than to improve their intellectual and moral qualities. In India, the soldier is liable to peculiar disadvantages,—inaction, the depressing effects of the climate, the frequent recourse to stimulants, and the abundance and cheapness of spirituous liquors. But there is still another cause of moral contamination peculiar to the army of India, whose strength is, as Lord William Bentinck states, annually recruited by the reception of the most profligate and worthless characters from the regiments proceeding to Europe in the order of relief. Hitherto, he states, corporal punishment has been more frequent in India than in any other military command. Need we wonder, then, that men situated as soldiers are, and knowing that unexceptionable conduct leads to little or no reward, should often become reckless, and fall into bad habits and low debauchery, thereby affording an apology, or a sufficient reason, for inflicting punishment.

On the 1st July, 1834, Mr. Ellice, the then Secretary at War, stated in the House of Commons, that *one in five* of the British

army at home had, in the course of the previous year, been confined in the public jails as a punishment for crimes. This is obviously a very high ratio of delinquency; but if the Mutiny Act and Articles of War are referred to, it will be found that a great proportion of the military offences enumerated therein would not in themselves be considered moral crimes, although highly dangerous to the discipline and efficiency of the army, and consequently to the country. The existence of a considerable degree of delinquency and insubordination in the army may be easily accounted for, without attributing to the men who enlist as recruits any unusual moral depravity or propensity to vice. When a youth enlists he is removed from parental care and solicitude, and any other moral restraint to which he has been accustomed; he is at the same time frequently exposed to bad example and evil communication, by which means he becomes more or less familiarized with vice. The army presents easy opportunities and great incentives to licentiousness, together with numerous concomitant irregularities. For the purpose of enabling the reader to estimate the general character of the offences for which soldiers are tried by courts-martial, I have subjoined an abstract of the number of soldiers belonging to regiments and dépôts in Great Britain and Ireland, who suffered imprisonment during the year 1839, shewing the nature of the offences in classes for which that punishment had been awarded, and the number in each class; also the longest and shortest period of confinement, and the average period for each class of offences.

OFFENCES.	Number of Men who suffered Imprison- ment.	Confinement in Days.		
		Longest Period awarded.	Shortest Period awarded.	Average Period of each Class.
Desertion . . . . .	1180	365	10	70
Violence to Superiors—Insubordination . . .	159	730	14	100
Disobedience . . . . .	67	450	7	48
Quitting or Sleeping on Post . . . . .	73	224	10	68
Drunkenness on Duty . . . . .	289	152	7	43
Habitual Drunkenness . . . . .	414	336	7	37
Disgraceful Conduct . . . . .	157	365	20	81
Absence without Leave . . . . .	930	224	3	27
Making away with Necessaries . . . . .	636	365	5	26
Miscellaneous—( <i>Articles of War</i> , 53 & 70)	413	365	6	32

In civil life, the desire of gain is the great motive to crime, and consequently the law has a principal reference to offences against persons or property; but in the army, the chief delinquencies, as

appears by the above abstract, arise from a love of liberty, or an impatience of restraint, want of due obedience to superiors, and an inordinate indulgence in sensual gratifications. Hence the Articles of War have a special reference to enforce obedience,—a virtue which comprehends the leading injunctions or principles of military law. Military offences are in general very different in their nature from the crimes which obtain in the non-military classes of society, many of them being neither offences against the person nor property; and, as a natural consequence of this difference or dissimilarity, recruits or young soldiers may be punished for errors committed in ignorance. “It is harsh,” says Dr. Jackson, “though it may not be, strictly speaking, unjust, to punish a soldier for forgetfulness; it is unjust and barbarous to punish him for ignorance.” Would it not be a wise and humane measure to render it an imperative duty in the Captains of companies to instruct their men, or to cause them to be instructed by the Subalterns, so as to make them understand the meaning and purpose of the Articles of War? Were this branch of duty rendered compulsory, officers would in some measure become responsible for many of the errors to which young soldiers are liable, more especially for those individuals who err from want of that information which ought to have been communicated to them. In connexion with this subject, I take leave to observe, that much care should be taken not to punish crimes of a very different enormity with the same degree of penalty; for no circumstance is more likely to render great crimes as common in a community as the more venial. “The moral judgments of men,” says Mr. Macdiarmid, “are in this manner confounded, and crimes which receive the same punishment come to be considered the same in guilt.”

I am well aware that, in even the best regulated regiments, there are commonly a few individuals who are ever and anon in some broil or other,—who, by long indulgence in vicious propensities, appear to lose all regard to the injunctions of officers; but, fortunately, this class is not numerous, and more generally the culprits tend to excite feelings of commiseration rather than a sentiment of vindictiveness.

Notwithstanding the indiscriminate admission of recruits into the army, in as far as moral character and education are concerned, and notwithstanding the bad example to which soldiers are frequently exposed, and the temptations to which they are liable, every regiment contains many excellent and deserving

individuals,—men who have in their limited sphere distinguished themselves by their talents, their integrity, and trustworthiness.

Nowhere have I met with more honourable or more excellent men, than I have found in all ranks of the army. The manual labour class of society are endowed with similar capabilities of observation with the class above them,—with similar faculties for the acquisition of knowledge, and the exercise of the moral virtues; but where the temptations to vice are great, and where the opportunities for intellectual improvement are few, moral excellence deserves to be held in high estimation. We may naturally expect most lapses where there is most temptation; but, on the other hand, a greater amount of virtue is exercised or called into being by resistance to temptation. I shall make no apology for subjoining Colonel Napier's excellent estimate of the British soldier :—

It is doubtless fitting that there should be some amongst us, who look forward to, and propose to prepare men's minds for, that happy time when war shall cease among men. It is also proper that there should be others, who regarding the world in its present state of hostility, seek to raise, as much as our nature will permit, the character of that necessary institution, an army (necessary, however much we may deplore the necessity), and to render it a school of honour, of noble aspirations, and generous and exalted sentiments. Few have laboured in this vocation more steadfastly or more successfully than Colonel Napier; and no sentiment evinced throughout his work does him greater honour, than his generous sympathy for the patient, hard-working, brave, but obscure soldier, without whom, and his rough virtues, the General would vainly hope for glory, or his country's safety. On no occasion does the historian seek to palliate or to hide the faults of the soldier; but admitting all that can be fairly charged against him, he still challenges for him the highest place, as his just due for the soldierly virtues which, when rightly formed and properly commanded, he invariably evinces. Time is required to form the habits absolutely necessary for the soldier; these habits are virtuous habits; just so much as a man acquires them, he becomes a good soldier—and exactly in the same degree is he the opposite of a villain. A mere burst of valour, the daring recklessness which might lead a villain to rush into action, and perform therein great deeds of courage —this is not that sedate and steadfast habit which is necessary for the veteran soldier. Any bold bad man may fight through one day of battle; but a well-trained soldier can alone, with honour to himself and utility to his country, perform the arduous duties attendant on a long campaign. Short-sighted is the policy that would seek to degrade this character. The interest of all would teach us to exalt, ennable, and purify it; to foster that enthusiasm which flings a radiant glory over the path of the soldier, and to make him feel that honour, his chief reward, is attainable by all; and then most surely to be won, when by great deeds most deserved. If, without this exciting hope,

the British soldier has performed those feats of valour here recorded, how great must be his spirit, how quick of impulse to good, how patient, how forbearing! Let no gross natures measure his worth by their own. To those who fancy that plunder and pay are his coveted reward, his daring must appear madness, his patience folly; but there are noble natures among the poor who fight for a glory not given by a Gazette, and love their country's honour, even though that country be ungrateful.—(*Edinburgh Review.*)

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## CHAPTER VII.

### PUNISHMENTS IN THE ARMY.

THE object of the following sketch is—

1. To enumerate and describe the various modes of inflicting punishments which have been in use in the military force of this country.
2. To trace the influence of civilization and public opinion, in gradually meliorating military punishments.

The laws of civil life are intended to establish a rational, religious, moral state of society, by a steady and long-continued action upon human nature; but the object of military law is simply to produce prompt and entire obedience to the will of a superior. “An army is a collection of armed men, obliged to obey one man.”—(Locke.)

The Rev. Mr. Colton appears to have had a very unfavourable opinion of the influence of the military law of the Emperor Napoleon; and I believe it must be admitted, that the usages of war in all armies are frequently but little influenced by rational, moral, or religious motives.

The reverend poet thus addresses Napoleon in his poem on *The Conflagration of Moscow*,—

Forge, then, the links of martial law, that *bind*,  
*Enslave, imbrute, and mechanize* the mind ;  
Indite the conscript code with iron pen,  
That cancels crime, demoralizes men.

The Honourable A. F. Tytler, in his *Essay on Military Law*, tells us, that “the martial law in former periods of our history deserved all those characters of *tyranny* which have been assigned to it;” and he also designates it as “an antiquated and justly exploded tyranny,” while he characterizes the law military, when he published (1800, and Second Edition 1806), as “a well regulated, moderate, and humane system.”

Sir Charles Napier “is of opinion, that although martial law has been influenced by the spirit of the age, and softened both in its ordinance and its practice, we have maintained, if not surpassed

our former military glory and discipline." Can we have a more satisfactory evidence that military discipline may be established and sustained without the frequent infliction of excessively severe punishments?

Military punishments are regulated by the Mutiny Act, the Articles of War, and the General Regulations of the Army. The Mutiny Act merely enumerates certain crimes which may be punished with death, or such other punishment as a court-martial shall award; while the punishment of all other crimes is left absolutely at the discretion of courts-martial, with the restriction only, that the members are not entitled to adjudge the loss of life or limb as the punishment of any crimes, but those enumerated in the Act. But if, with this single exception, they spare life and limb, they are authorised to punish all other military crimes, namely, immorality, misbehaviour, or neglect of duty, either with corporal punishment, imprisonment, pecuniary mulct, or with a slight censure, as to them may seem best. The Sovereign is, however, allowed to regulate this discretion, in any way he may think proper, and to make what regulations he pleases for the direction of the courts-martial. These regulations are called the Articles of War, to which the General Regulations are subsidiary.

Tytler thus describes the military code of this country:—"A British soldier, enjoying in common with his fellow subjects, every benefit of the laws of his country, is bound, by the military code, solely to the observance of the peculiar duties of his profession,—a code which is simple in itself, reasonable in its enactments, easy in all its obligations, level to the meanest understanding, and more effectually promulgated and better known than any of the ordinary statute laws of the realm."—(*Essay on Military Law, &c., Second Edition*, 1806, p. 25.)

A late writer on military law (Sir Charles Napier), and a much better authority on the usages of the army than Mr. Tytler, gives a somewhat different account of the British military code:—"Dreadful," says he, "is the calling of a soldier, and dreadful must the means be, by which that calling is fulfilled during war. A state of war is the natural state of an army; and military institutions must have war for their object, or they are without sense."

"As a soldier, OBEDIENCE is '*the Law and the Prophets.*' His religion, law, and morals, are in the 'Orderly Book.' If that says 'spare,' he spares: if that says 'destroy,' he destroys! The conscience of a good soldier is in the keeping of his General, who has the whole responsibility, before God and man, for what the

soldiers do in obedience to his orders. Perfect obedience is then a yoke which every soldier of the British army voluntarily places upon his own neck when he enlists."

"Those alone," says Count Alfred de Vigny, a retired officer of the French army, "who have been soldiers, know what servitude is. To the soldier alone is obedience, passive and active, the law of his life—the law of every day and of every moment; obedience not stopping at sacrifice, nor even at crime. In him alone is the abnegation of his self-will, of his liberty of independent action, absolute and unreserved; the grand distinction of humanity, the responsibility of a moral agent, being made over once for all to superior authority."—(*London and Westminster Review*, vol. vii., p. 32.) In fact, nothing short of this severity has been found necessary, in order that one individual might be master of 100,000 armed men. Passive obedience from grade to grade, is a condition essential to the existence and efficiency of an army. "When the clock-maker has made a clock, it goes without asking why. Soldier, you must be like the clock; march, turn, halt, and, above all, not a word."

It is essential to bear in mind, that the object of military law is not to punish moral delinquencies, in other words, to make men virtuous and good, but to produce prompt and entire obedience; hence, a military offence may not be a crime in its moral sense. Military crimes are usually arranged under the following classes:—

1. Mutiny.
2. Desertion.
3. Violence to a superior; Insubordination.
4. Disobedience and neglect of duty.
5. Quitting, or sleeping on post.
6. Drunk on duty, under arms.
7. Habitual drunkenness.
8. Disgraceful conduct.
9. Absence without leave.
10. Making away with necessaries.
11. Miscellaneous crimes.

(*Vide Articles of War*, 70).

Crimes in civil or social life are commonly classed under two heads, namely—1st, offences against the person; 2nd, offences against property. The difference of the character of the requirements of social and military law, is therefore obvious.

The army includes within itself the germs of the military crimes committed, and at the same time the temptations and the necessary facilities for their development. It is the military state or condition of soldiers which in some measure prepares these crimes, and the

criminal may be said to be the instrument to execute them. A certain number, and a certain order of crimes, are the necessary result of the organization, discipline, usages, and services of the army. Soldiers who have been unable to resist the temptations to crime and disobedience in the army, and who were discharged as incorrigible or excessively prone to commit irregularities, have become industrious, orderly, respectable members of civil society.

Military law (obedience) has in all ages been enforced by more rigorous penalties than the punishments of social law. To illustrate the rigour sometimes used in this respect, I have subjoined an account of the trial and execution of a very remarkable soldier.

Private Flanagan, —— regiment, was a fine-looking soldier, about six feet one inch in height. He had excellent natural talents, and had received a tolerably good education. He had acquired a knowledge of Latin, and could speak the French language. When the regiment went to India, he was in a short time able to communicate with the natives in several of the languages of the country. Although Flanagan was a smart clever soldier, he was liable to commit slight breaches of military discipline, and his name was consequently sometimes entered in the Defaulter Books. Being a man of high spirit and violent temper, he could ill bear the reproaches of the Adjutant, who repeatedly censured him for his irregularities. On one occasion he became so irritated with the rebuke he was receiving, that he impatiently pushed the Adjutant from him with the back of his arm. Flanagan was forthwith tried by a court-martial for offering violence to the Adjutant, and sentenced to suffer death. When the sentence was communicated to him, he simply observed that he thought the award of the court was severe. On the day of the execution he preserved the most remarkable firmness, and conducted himself with the strictest decorum. The square having been formed, he, by permission, addressed the company to which he belonged. Having reached the fatal spot, the Fort-Adjutant commenced to read the proceedings of the court-martial; but having lost self-possession, his tongue faltered, which being observed by Flanagan, he addressed him by saying, "I see, Sir, that you are agitated; pray allow me to read the proceedings for you." No notice was, of course, taken of this offer. He then begged that he should not be blindfolded, and that he might be permitted to give the word of command to the execution party; both of which requests were granted. He finally gave the word of command, with as firm a voice as a Sergeant-Major is accustomed to do on a drill parade.

Flanagan's untimely fate took place in June, 1828, at Trichinopoly—he having, in all probability, fallen a victim to the unwise, injudicious, and harassing treatment of a superior officer. How far it was beneficial to carry the capital punishment into effect in this case, it is not for me to give an opinion. The crime appears to have been the result of momentary passion, or irritation, not a con-

sequence of design ; and perhaps he was hardly sensible of the breach of discipline he committed in the act for which he suffered death.

It is the object of the following pages to describe the different punishments which have been adopted to promote order and preserve discipline in the British army, and to notice the meliorations which have, from time to time, been made in these punishments. The improved discipline which, according to competent authority, has taken place, notwithstanding these alterations, inspires a hope that the penalty of corporal infliction (flogging) may be gradually allowed to fall into disuse. "It is," says Sir Charles Napier, "the duty of Government at once to put rewards and minor punishments into full activity, and in a complete manner. Thus, the lash will soon become obsolete ; and this is the safest method that can be adopted for the abolition of flogging." With this sentiment I most cordially agree.

We have the high authority of Sir Henry Hardinge for stating, that good discipline may be preserved without much punishment. His words are—"The state of discipline in which the army now is, and the great diminution of corporal punishment, prove that frequent and severe floggings do not produce good discipline. The regiments of highest reputation in the service, have for years had the fewest punished men."—(*Evidence on Military Punishments*, Quest. 5662.)

There is, perhaps, no profession into which the improving spirit of the age has made such deep inroads, as the military and naval branches of the public service. The meliorations of the navy may be said to have commenced after the mutinies at Spithead and the Nore, and to have been progressive and important ever since. The meliorations of the army made an important step in 1806 ; but compared with the navy, they have been less progressive, and of less consequence. Although considerable improvements have taken place in the army, still much requires to be effected. Fortunately, the aid of public discussion, which familiarizes the mind to changes and improvements in our institutions and usages, is now permitted or recognised, by which means alterations are examined, and their benefits established before they are adopted. Without previous discussion, changes that may be good, abstractedly considered, lose half their benefit by being precipitately carried into effect. In the language of the Commissioners on Military Punishments, "No practice can be long maintained, which is really contrary to the well-considered judgment and settled feelings of the country." The necessity or expediency of the punishment of

flogging, must depend upon public opinion, the feelings this mode of punishment excites, and the views taken of it by the bulk of the community possessing more or less influence.

The following sketch is calculated to shew how progressively public opinion changes. The different kinds of military punishments, as well as the different degrees of severity with which they were inflicted, together with the relative frequency of their occurrence, mark the changes which have taken place in the "world's mind" in this respect, and shew that the military laws, as well as the civil code of a country, yield to the influence of popular opinion—the will of the people.

The very great improvement which has been effected during the present century in the administration of military law and military usages, by the force of public opinion and the progress of civilization, may serve as a beacon for the guidance and encouragement of those who linger in the path of melioration, and anticipate evils from further change.

In the following pages my object has been principally to collect facts which may serve as materials for future enquirers, who may combine, compare, and draw deductions from them, and by that means render them practically useful.

The first regulation on record which refers to punishment in the army is the Charter, as it is called, of Richard I., which was addressed to all his men going by sea and land to Jerusalem, and purports to have been made in the first year of that monarch's reign, for the emergency described. The ordinance being short is here inserted verbatim.

*Chinon, 1st Richard, 1189.*

Richard, by the grace of God, King of England, Duke of Normandy, &c., To all his men going by sea to Jerusalem, greeting: Know ye, by the common counsel of all good men, we have made the underwritten ordinances.

I.—He who kills a man on shipboard shall be bound to the dead man and thrown into the sea.

II.—If the man is killed on shore, the slayer shall be bound to the dead body and buried with it.

III.—Anyone convicted by lawful witnesses of having drawn his knife to stick another, or who shall have drawn blood of him, to lose his hand.

IV.—If he shall have only struck with the palm of his hand, without drawing blood, he shall be thrice ducked in the sea, from the yard-arm.

V.—Anyone who shall reproach, abuse, or curse his companion, shall, for every time he is convicted thereof, give him so many ounces of silver.

VI.—Anyone convicted of theft shall be shorn like a champion, boiling pitch shall be poured on his head, and down of feathers shaken over it, that he may be known, and he shall be set on shore at the first land at which the ship touches.

Champions hired to fight legal duels in cases of murder and homicide, had their hair clipped or shorn close to their heads.

Richard has been represented in history as a military savage, only redeemed a little by the profession of religion, and by what is called chivalry.

King Richard's Articles of War were obviously framed after the original idea of punishment, which was to inflict pain on a person as a satisfaction or atonement for some offence which he had committed. The law of retaliation, *lex talionis*, was recognised by the Mosaic law, the punishments awarded by which are,—  
 1. *Death* by the sword, or by stoning, followed in some instances by gibbeting the corpse of a criminal for a few hours.—(Deut. xxi., 23.) 2. *Exile* from the congregation. 3. *Corporal punishments*, the maximum number of stripes being fixed at forty, while the amount of the sentence, which could not legally exceed that number, was left to be determined by the circumstances of the case and the discretion of the judges. 4. *Fines*. 5. *Offerings* to make atonement for sin.

In the Hindu law the principle of retaliation is also sanctioned : for example, whoever breaks a dam or sluice, by which an inundation would be caused, shall be drowned ; an adulterer shall be burned on an iron bed ; a cut-purse is to lose two fingers ; and with whatever limb a thief commits an offence, even that limb shall the King amputate.

By the *Regiam Majestatem*, or ancient laws of Scotland, which collection is supposed by several authors to be a mere compilation from the old laws of England, it appears that the criminal laws of Scotland were framed according to the same principle, that of retaliation. For example :—

*Of the Price of Blood and Injuries.*

Exod. xxi., 18.; Levit. xxiv.

1. Be the law of Scotland, for the life of ane man, 9 times 20 kye.
2. For ane fute, 1 marke.
3. For ane tuth, 12 pennies.
4. For ane wound of the lenth of ane inch, 12 pennies.
5. For ane strake under the ear, 16 pennies.
6. For ane strake with ane batton, 8 pennies ; and gif he quha is stricken falles to the earth, 16 pennies.

7. *Item.* For ane wound i' the face, 1 piece of golde, that is, ane image of golde.
8. *Item.* For ane broken<sup>a</sup>bane, 5 oræ.
9. For ane wounde under the claithes, 12 pennies.
10. For ane wounde before the sleive, 16 pennies.
11. For ane visible wound, except i' the face, 15 pennies.
12. For ane wound above the end (breath), 5 shillings.
13. Under the end, (breath), 40 pennies.
14. For ane strake with the fute, 40 pennies.
15. For ane strake with the steiked neif, 12 pennies.
16. *Item.* Anent the straik with ane palm of the hand, for ilk finger, 12 pennies.
17. For shedding or drawing of blude, 25 shillings.

According to the Articles of War for the Dutch army, the principle of retaliation was in some respects very rigorously observed. By the law, as it stood in 1717, it was ordered, that "if a soldier give his fellow a box on the ear, he is to receive the like from him on the head of the regiment; or, if an affront of any kind be given, he who offers it is ordained in a public manner to repair the other's honour."

In ancient times it was customary for Kings, or officers in command of armies, to form regulations, or Articles of War, for the soldiery, at the commencement of a campaign. These regulations chiefly respected the chastisement of military offenders, or offences which the officer in command considered necessary to punish to preserve order and promote the efficiency of the army. In these regulations the infliction of death is the first, and ever-present resource. "Drawing (dragging), hanging, quartering, and beheading are awarded, without any discrimination, against offences of the most dissimilar quality, and of the most contrasted character." Not only the capital but the secondary punishments were of a most ferocious and sanguinary description, such as dismemberment, maiming, or fracturing of the limbs, boring of the tongue with a red-hot iron, and burning or branding the cheek, and cutting off the left ear.

Grose (*Military Antiquities*) informs us, that in many instances where a corps, or a considerable body of men, were guilty of a crime for which the established punishment was death, to prevent too great weakening of the army, the delinquents were decimated, every tenth man being executed; sometimes corps were decimated by ranks and files. In cases where a few only were condemned to suffer for the sake of example, the whole were ordered to cast dice on the drum-head, sometimes under the gallows, and the requisite number of persons who threw the low

numbers were doomed to death. It appears by authentic documents that this method of casting dice was practised in Ireland so late as the reign of William III. Indeed, casting dice seems to have been practised in the case of desertion until the accession of George I., and, perhaps, to a much later date. I have heard of a regiment which was on service in India, not fifty years ago, when, in consequence of marauding, the majority of the corps were prisoners to the minority. In this case a few delinquents were selected by ballot from the whole number, and punished at the halberts.

The *decimation* of corps appears to have been recognised as a legitimate punishment in the Austrian army during the present century. After the battle of Wagram the Archduke Charles issued a General Order, (7th July, 1809,) of which the following is an extract :—

In every regiment which shall hereafter conduct itself in a similar (cowardly) manner, the tenth man shall be condemned to die, and the rest distributed among other regiments. The Commanding Officers shall be cashiered, and all other officers dismissed. Cries of alarm among the troops shall be punished with death.

With respect to the administration of military law, it appears that until a comparatively recent period almost every important case was left to be decided by the discretion of the Commander-in-Chief of an army. “The High Marshal shall make choice of a good Provost, to whom he may commit the handling of smaller matters, always retaining the greater causes, and such as concern *life*, to be heard by himself.”—(Digges, *Stratioticos*.)

The ordinances of war, during the sixteenth and part of the seventeenth century, contained a minute enumeration of military crimes, and a clear denunciation, so far as they admitted of precision, of their correspondent punishments. Death, fines, and forfeitures appear to have been very common punishments; the latter being imposed on many slight transgressions, whether committed by private soldiers or officers. The emoluments of the Earl Marshal depended in a great measure upon the fines which were thus imposed. Under such a system of temptation, where officers had a beneficial interest in the delinquencies of soldiers, neither honesty nor humanity could be expected to prevail.

The punishments mentioned in the *Lawes and Ordinances Militarie* of Robert Earl of Leicester, Captain-General of Her Majesty’s Army and Forces in the Low Countries, &c. &c., 1579, are as follows :—“Death with torments; death; loss either of

life or limb ; banished the army ; fines ; loss of place and wages ; imprisonment." Vagrant women were to be whipped ; but it does not appear that the punishment of the gauntlet or flogging had been then introduced into the army.

Great care seems to have been taken to prevent discord ; for according to an ordinance of the Earl of Leicester's, "No man shall quarrel, brawl, or make any fray within the camp, or tower, or garrison, upon *pain of loss of life or limb*, at the discretion of he General or Marshal." Blasphemy or profane swearing was punished by "loss of 5s. to the relief of the poor, for the first offence ; for the second, five days' imprisonment ; and for the third, loss of his place and wages." The punishment for blasphemy in the Spanish army at this time, was, "for the first offence, thirty days' imprisonment ; for the second sixty, and to be shamed openly with a gag on his tongue ; and for the third to be made a galley-slave, either perpetually, or to some time certain."

" Any Captain finding any soldier, of what band or company soever, which hath transgressed any of these lawes and ordinances, may take him and bring him unto the Marshal to be punished." It does not appear that the Captain had anything to say in regard to the nature or degree of the punishment a soldier received from a Provost-Marshal, who seems to have, in most cases, been both judge and executioner. According to Diggles, the following is a copy of one of the military ordinances practised among the Spaniards :—" For that drunkenness doth turn men into beasts, and makes them so many times utter words tending to mutinies and new sects in religion, if any man drink dronk, he shall be chastised as a ninfamous person, with a *banne* that shall publish his fault."—(*Stratioticos*.)

The profession of religion was in early times enforced by means of heavy penalties ; for example, according to the *Lawes of Armes, &c.*, (published by Sutcliffe in 1593,) " Notorious swearers and blasphemers shall be punished according to the qualitie of their offence, yea with *death*, if their faults be heynous."

The punishment of imprisonment, and a diet of bread and water, is a very ancient mode of chastising soldiers, and one which is still in use at the present day. The following law is extracted from Sutcliffe, p. 305 :—" For that God is greatly offended with drunkenness, and the abuses that come of it ; and forasmuch as all camps and garrisons are thereby much disordered, and many good men suffer for the abuse of such lewd drunkards : therefore,

such are to be *imprisoned and fedde with bread and water*, so long as the qualitie of their offence shall deserve."

By an article in the *Lawes and Ordinances of Warre, &c.*, promulgated by His Excellency the Earl of Northumberland, who commanded the Royal army in 1640, it appears that officers were in the habit of chastising soldiers in a summary way by manual correction. The article in question is as follows:—"No man shall resist, draw, lift, or offer to draw, his weapon against an officer correcting him *orderly* for his offence, upon pain of death." A similar article is comprehended in the *Lawes and Ordinances of Warre*, established by the Earl of Essex in the Parliamentary army. Resistance to a commanding officer, or contumacy in a soldier, such as taking hold of an officer's rod, or cane, where-with he was beaten, was by the Romans deemed a capital offence. By the *Ordonnances of Louis XIV.*, a soldier who struck an officer was to have a hand chopped off, and then to be hanged.

In 1642, the Earl of Essex, who commanded the Parliamentary army, published a code of *Lawes and Ordinances of Warre, &c.*, which seems to have been the foundation of the present Articles of War. This code enumerates certain crimes which are to be punished with death, while the punishment of all other offences is left to the discretion of a council of war. There are from forty to fifty delinquencies mentioned for which death may be awarded. The secondary punishments, especially enumerated, are, "boring the tongue with a red-hot iron; loss of pay; confinement in prison, with only bread and water; riding the wooden horse; and degradation to serve as pioneers and scavengers."

In the same code of laws it was ordered as follows:—"First, let no man presume to blaspheme the holy and blessed Trinity, God the Father, God the Sonne, and God the Holy Ghost, nor the known articles of our Christian faith, upon pain to have his tongue bored with a red-hot iron." The offence of blasphemy, namely impugning the doctrine of the Trinity, it may be remarked, is punishable at common law by *fine* and *imprisonment*; but while it was forbidden by an Article of War, and remained within the cognizance of a court-martial, it was treated with a much heavier penalty, the blasphemer being liable to have his tongue bored through with a red-hot iron, even at so late a period as the reign of King James II.—(*Vide Fourth Article of War, James II.*)

We are informed, that “a soldier of Okey’s regiment was, on the 26th July, 1650, sentenced by a court-martial *to be bored through the tongue with a red-hot iron*, and to run the *gantlope* through four companies, for uttering blasphemous words, he being at the time in a ranting humour with drinking too much.”

The punishment of the “gantlope” will be better understood by the following sentence, which was passed on two soldiers for deer-stealing: the punishment took place in September 1649:—“That they be stripped naked from the waist upward, and a lane to be made by half of the Lord General’s regiment of foot, and half of Colonel Pride’s regiment, with every soldier a cudgel in his hand, and they to run through them in this posture, every soldier having a stroke at their naked backs and breasts, arms, or where it shall light; and after they have run the gantlope in this manner, they are to be cashiered the regiment.”

Tongue-boring seems to have been frequently employed as a punishment in the seventeenth century, both in this country and in North America. In 1656, James Naylor, one of the first Quakers, was sentenced to be set on the pillory, at Westminster, during the space of two hours on Thursday, and on Saturday he was to be whipped by the hangman, through the streets, from Westminster to the Old Exchange, London, and there to be set on the pillory for the space of two hours. Here his tongue was to be bored through with a hot iron, and branded in the forehead with the letter B: he was afterwards to be whipped a second time, and to undergo a variety of other modes of punishment. “I went,” says Burton, a Member of Parliament, and my authority in regard to this case, “to see Naylor’s tongue bored through, and him marked in the forehead. He put out his tongue very willingly, but shranked a little when the iron came upon his forehead. He was pale when he came out of the pillory, but high coloured after tongue-boring.”

It was Louis IX., King of France, who for his virtues was numbered among the saints, that first sentenced blasphemers to have their tongues bored with a hot iron, being a species of retaliation—the sinning member suffering the punishment. An ordinance of Louis XIV. declared, that “those who shall be convicted of having sworn by, or blasphemed, the holy name of God, or His most holy mother, or of His saints, shall, for the first offence, pay a fine; for the second, third, and fourth, a double, triple, and quadruple fine; for the fifth, shall be put in the

stocks ; for the sixth, shall stand in the pillory and lose the upper lip ; for the seventh, shall have his tongue cut out."

In 1813, a Bill was brought into Parliament by Mr. Smith, and passed, to grant further relief to individuals differing in opinion from the Church of England, with respect to certain penalties imposed by law on those who impugn the doctrine of the Trinity, and to extend to such persons the benefits conferred on all other Protestant dissenters. This Act may be said to have had a special reference to the army, inasmuch as, by an Article of War, a soldier was liable to a heavy penalty for impugning the doctrine of the Trinity. Since the passing of Mr. Smith's Bill, the Article has been modified as follows :—

"Any officer or soldier who shall presume to speak against any known article of the Christian faith, shall be delivered over to be proceeded against according to law."

It may be mentioned that commissioned officers were as liable to be sentenced by a court-martial to the corporal punishment of having the tongue bored with a red-hot iron for blasphemy, as privates. This punishment remained on the military statute book until the reign of Queen Anne.

A very summary mode of punishing cowardice was directed to be adopted about the middle of the seventeenth century ; for, on the descent of a British force in Jamaica about the year 1655, General Venables issued orders that if any man should be found to run away, the next man to him should put him to death, which, if he failed to do, he should be liable to the severest punishment by a court-martial.—(*Vide M'Arthur on Courts-Martial.*) The above order of General Venables is still more severe than a somewhat similar rule in the Roman army, which directed that *whosoever first fled in battle*, was not only liable to capital punishment, but it was permitted (not ordered, however) to any man to kill him without, as Bruce says, further sentence or solemnity.

Military punishments being greatly modified by the judicial punishments in civil life, it will be necessary for me to advert to them occasionally in the course of this sketch. The legal punishments inflicted for social offences, according to the Saxon laws, were—*death, by hanging and sometimes by stoning ; fines ; imprisonment ; outlawry ; banishment ; slavery ; transportation ; whipping ; branding ; the pillory ; amputation of limb ; mutilation of the nose ; castration ; mutilation of the ears and lips ; plucking out the eyes ; and tearing off the hair.*

The punishments of more modern times were as follow:—

I.—CAPITAL PUNISHMENTS.

Capital punishments must be either *retributive* or *exemplary*. How inadequate are our means of ascertaining the degree of moral guilt, in most cases, so as to enable us to award a due retributive punishment in physical or mental suffering! “To acquire a complete knowledge of the guilt attached to an individual for an act of delinquency, it would be necessary to find out the secret springs that had led to the commission of each particular act—how much of the motive arose from the force of circumstances, acting momentarily on the mind, how much from a hardened disposition, and how much from mere weakness and mental imbecility.” The vagaries of incipient and temporary insanity are easily mistaken for the outbreaks of reasoning insubordination; and after an offence has been committed, it is often impossible to obtain the requisite knowledge of the responsibility or of the motives of a delinquent, so as strictly to apportion punishment to guilt.

Exemplary punishments are perhaps not less difficult to award. To punish one man for the purpose of deterring some other unknown person from the commission of crime, can scarcely be defended upon the common principles of justice, even if it were demonstrated that exemplary punishments are beneficial. But how rarely is it obvious that punishments inflicted for example's sake have possessed much of the deterring principle.

1. *Death by hanging*.—In high treason the punishment is in general very solemn and terrible. The delinquent is to be drawn to the gallows, and not to be carried, or to walk, though usually a sledge or hurdle is allowed, to preserve the offender from the extreme torment of being dragged on the ground. He is to be hanged by the neck, and then cut down alive. His entrails are to be taken out, and burned while he is yet alive. Then his head is to be cut off, and his body to be divided into four parts, the head and quarters being at the King's disposal.

2. *Death by beheading*.—This punishment was introduced by the Normans, as being a less ignominious mode of putting criminals of high rank to death.

3. *Death by burning alive*.—The punishment of females for petit treason, or murder in the most odious degree, was, until near the end of the last century, to be burned alive. On the 24th October, 1773, Mrs. Herring was tried for the murder of her

husband, and burned alive in St. Stephen's Green, Dublin. Burning alive was the punishment awarded for *heresy, sorcery, witchcraft, and conjuration*. In this respect the civil law imitated the express law of God, "Thou shalt not suffer a witch to live."—(Exodus xxii., 18.) In Scotland thousands of persons were burned in the period of about 100 years. The last execution of a Scottish witch took place at Dornoch, Sutherlandshire, in 1722. Having been brought out for execution, and the weather being cold, the victim, a poor old woman, sat composedly before the pile, warming herself by the fire prepared to consume her, while the other instruments of death were making ready.

Capital punishments were rare under the Saxon Kings and the early Norman Sovereigns. Richard I. repealed the penalties of castration, loss of eyes, and cutting off the hands and feet, in consequence, as is supposed, of the severity of these punishments preventing prosecutions.

#### II.—SECONDARY PUNISHMENTS.

1. *Banishment—Transportation*.—By a statute passed in the reign of Elizabeth, it was enacted, that "such rogues as were dangerous to the inferior people should be banished the realm." Transportation was not brought into common operation until after the sixth year of the reign of George I. Under the statutes of George I. transportation to America lasted from 1718 till the commencement of the War of Independence, in 1775. Transportation was resumed by a statute, 24th Geo. III. ; and in the month of May 1787, the first band of convicts left England, which in the succeeding year founded the colony of New South Wales.

2. *Mutilation*, by cutting off the hands or ears, cutting out the tongue, &c.—A person who struck another in the place where the King resided, was liable to have his right hand cut off, by a statute of Henry VIII. ; and by another of Elizabeth, the exportation of a sheep incurred a forfeiture of the left.

3. *Perpetual or temporary Imprisonment*, with or without hard labour.

4. *Slitting the Nostrils—Branding*.—In all felonies where the benefit of clergy was allowed, the criminal was to be marked with a hot iron, with the letters T or M, for *thief* or *manslayer*, on the left hand, and rogues were to be burned on the shoulder with the letter R. Prynne, the eminent compiler of records, who published a pamphlet reflecting on the hierarchy, was sentenced to be branded on both cheeks with the letters S and L—*seditious libeller*.

5. *Fine.*

6. *Whipping*.—The punishment of whipping appears to have been left much to the discretion of jailors, who could inflict the penalty how and when they pleased. Corporal punishment is becoming daily more unpopular in this country, and its practice is fast going into disuse. Whipping is now seldom used, except for juvenile offenders.

The public and private whipping of females was abolished in 1830.

7. *The Pillory*.—A scaffold for persons to stand on, to render them infamous. In some cases the head was put through a hole, the hands through two others, the nose slit, the face branded with one or more letters, and one or both ears there cut off. Many persons died in the pillory, by being struck with stones by the mob. The pillory was totally abolished by Act 1st Victoria, June 1837. In 1832 it was abolished in France.

The Scottish pillory, *collistrigum*, or neck-stretcher, has long fallen into desuetude. By this instrument a very savage punishment was inflicted. The culprit being placed on a low scaffold, in a standing position, his neck was encased in a wooden collar, or board, not so closely as to provoke suffocation, but being elevated to such a height as just to allow the tip of the toes to barely touch the ground, the weight of the body on the chin and back of the head produced a painful sensation. Nearly allied to the *collistrigum* was the punishment of the *jougs*, from *jugum*, a yoke, formerly in use in Scotland. Evil doers were chained to the gateways of parish churches by means of the *jougs*, an iron collar fastened with a padlock. This infamous punishment was frequently administered at the instance of Church Courts. Sometimes the culprits were dressed in sackcloth, and passengers had a liberty of spitting on individuals so unfortunately condemned to this species of pillory. The last person exhibited in the *jougs* or *brangus*, at Inverness, as an example to offenders, was a military officer, at the instance of the Rev. Mr. Macbean.

8. *The Stocks*.—A wooden machine to put the legs of offenders in, by way of punishment, in divers cases ordained by statute. In 1376 the Commons prayed the King for the establishment of stocks in every village. Formerly in great houses, as also in some colleges, there were moveable stocks for the correction of servants. A whipping-post usually adjoined the stocks.

9. *The Ducking Stool*.—Scolding women used to be placed in a ducking-stool, and then suspended over a deep pond, into which

they were let down, and plunged under water thrice. The ducking-stool was not abolished in Liverpool before the year 1776.

From the foregoing enumeration of punishments employed in this country, it will appear, that they almost all involve the infliction of pain by different means, as death, mutilation of the body, flogging or beating, privation of bodily liberty, banishment, forced labour, limited diet, pecuniary fine, branding, &c. At certain periods particular modes of punishment have prevailed, which having been found inefficient or unpopular, have been superseded by other forms which have also given way in their turn, and the same punishment has been much more frequently employed at one time than at another. It has been well observed, that "nothing that philanthropy or sagacity can suggest, will ever render human punishment other than it is, a coarse, indiscriminating, and imperfect preventive of crime, often demoralizing instead of reforming, and only inflicted because, on the whole, it represses, as we hope, more mischief than it occasions. Crime, misery, and punishment, considered abstractedly, are evils in every shape—the last, among the heaviest evils which society must necessarily endure." Hitherto the institutions which have been established for secondary punishment, have been found to be radically inefficient or vicious; every mode of punishment which has yet been tried, has disappointed the expectations in which it originated. One result is, I believe, quite certain, that in as far as regards the repressing of crime, and the promotion of good conduct, degrading and severe punishments have failed to a much greater degree than penalties of a comparatively lenient character.

By Acts which have been passed during the present century, the penalties of the statute law have been greatly meliorated; formerly they were excessively severe, so much so, that we look back with horror and disgust at the offences which were punished, and the punishments which were inflicted upon individuals. For some time after the commencement of the eighteenth century, heretics and witches were committed to the flames. The cutting of a twig, and assassinating a parent,—breaking a fish pond, and poisoning a whole family, or murdering them in their sleep, all incurred the same penalties; and two hundred different actions, many not deserving the name of offences, were punishable by death. The statute gave the text, and the tribunals wrote the commentary in letters of blood, and extended its penalties by the creation of con-

structive offences. In February 1785, twenty persons were hanged at once at the Old Bailey.

The number of capital offences was greatly increased during the eighteenth century. Sir Fowell Buxton stated, in the House of Commons, that,—

- 4 offences were made capital by the Plantagenets.
- 27 by the Tudors.
- 36 by the Stuarts; and
- 156 by the House of Brunswick.

When Blackstone wrote his *Commentaries*, there were 160 offences to which the penalty of death was attached.

Capital offences having recently been greatly reduced, I may here give the actual state of the law in that respect as shewn by the following list of offences still *punishable with death*.

1. *High Treason*.
2. *Murder*.
3. *Attempting to Murder*, by poison, &c.
4. *Attempting to Murder*, by stabbing, &c.
5. *Rape*.
6. *Unnatural Offences*.
7. *Piracy*, if accompanied with an attempt to murder.
8. *Robbery*, whenever accompanied with an attempt to murder.
9. *Burglary*.
10. *Arson*.
11. *Unlawfully setting fire to, or casting away, a ship*.
12. *Exhibiting false lights at sea*.
13. *Being accessory to any of the above capital offences*.

Markham, who published his *Epistles of Warre* about the year 1622, gives us the following account of the duties of a Provost Marshal, from which the nature of the military punishments then inflicted may be inferred.

The Provost Marshall hath the charge of all manner of *tortures*, as *gyves, shackels, bolts, chains, bilbowes, manacles, whips*, and the like, and may, by his ministers, use them, either in case of judgment or commandment from a marshall court, or otherwise upon unruliness, at his own discretion; he is, by his officers, to see all places of execution prepared and furnished with engines fitting to the judgment, whether it be *gallows, gybbets, scaffolds, pillories, stocks, or strappadoes*, or any other engine which is set up for terror and affright to such as behold it. The Provost hath allowance for many attendants of all sorts, and conditions to despatch any executive, how suddenly soever commanded; and to that end it is not lawful for the Under Provosts to go at any time without *halters, withs, or strangling cords of match* ever about them.

Sir James Turner furnishes us with a pretty full account of the military punishments of the seventeenth century, in the *Pallas Armata*, a work which was published in 1683. In one chapter of his work he treats of military laws and articles, of courts of war, of the Judge Marshal, and of the Provost Master General; and

in another chapter he describes “our modern military punishments and rewards.”

The fairest and justest way of punishment (says Sir James) is by courts of war, if the case do not require a present animadversion. As to capital punishments, the most honourable death for a delinquent soldier is beheading, the next to that is shooting,—if he be a horseman, with pistols,—if a foot soldier, with muskets. But the punishments of several crimes are left by martial law to the arbitrament of a court of war, and some of them are made capital, though in themselves they are not such, of which demurring to give present obedience if an enemy be conceived to be near is one, and this falls frequently out.

The secondary military punishments, according to the same authority, are—“the *strappado*;” hanging up by the thumbs, so that the delinquent’s toes can only touch the ground; laying muskets on their shoulders, more or fewer, for a longer or shorter time, according to the quality of the fault; to be kept in prison so many days or weeks, with irons on them, and sometimes to be fed only with bread and water in prison.

Observe here, that without a sentence of a court of war no superior commander, be he who he will, can keep an inferior officer or common soldier longer in prison than the imprisoned party calls for a hearing. There is also riding the wooden horse, on which sometimes he hath his hands tied behind his back, and sometimes muskets, or other weights, tied to his feet. As likewise to be turned out of the army by the *hangman*, to have his ears cut off by the *hangman*, and to be whipped by the *hangman*. I have known some who thought that soldiers who are whipped at *gatlope* should be turned out of the army, which is a gross mistake, for they are appointed to be whipped by their comrades, that they may be kept in the army; *for after an officer or a soldier is put into a hangman’s hands, he should serve no more in any army*. Gustavus Adolphus, King of Sweden, first began it (the gantlope), in imitation of the customs of the Roman centurions to whip their soldiers.

The punishment of the strappado (*estrápade*, French), is thus described in a French work.

The delinquent is hoisted up by means of a rope fastened to the arms behind his back, and then suddenly dropped down with a jerk, by which process his shoulder joints were sometimes dislocated. He was sometimes hoisted up, and again let fall two or three times.

This punishment was abolished in France by Louis XIII.

When the punishment of the *gatlope*, or *gantlope*, is inflicted, the Provost Marshal furnishes the rods, and gives the delinquent the first stroke; but if there is neither Provost nor Deputy present, then a drummer gives the rods.

Sir James next states “in what cases officers may *strike, wound, or kill*. There are several cases,” says he, “which require present punishment to be inflicted by officers and commanders, without

committing the delinquents to prison, or calling them before a court of war; as, in point of obstinacy, either in not doing the thing that is commanded, or not doing it in that manner that the officer would have it done, the giving undutiful language in presence of a superior; speaking after silence is commanded; standing still after being commanded to march or go. In any one of these, and many other cases, a Sergeant may make use of his halbert, and a commissioned officer of his *battloon*, if the party offending be either an inferior officer or common soldier, Nay, there be some cases wherein officers may *cut, wound, yea kill*, as in a mutiny; in case soldiers be plundering, and will not forbear when commanded; in case two be brawling and fighting, and will not leave off. But killing should be used by no officer, but when the service of the Prince, or the vindication of just authority, make it necessary. And therefore to kill soldiers when they straggle on a march, unless they refuse to obey and return to their companies, I think is a crime in any commander or officer, except in a Provost Marshal, or Rumour Master (Scout Master?)”

The author next discusses “some nice questions” in regard to the mode of beating soldiers; for example, “a Corporal,” he says, “must only beat with a musket rest; and if he broke one of them in beating a soldier, who should pay for it, the Corporal or the soldier, is a hard question.” Sir James does not attempt to resolve this difficulty.

Our author concludes his observations on punishments with the following exhortation to officers of the army:—“And now,” says he, “I shall desire all of my profession, of what quality soever they may be, to proportionate their punishments to the crime, and to take good heed, as they will answer it one day to the Great Judge, they do not avenge their private quarrels and grudges under the cloak of public justice. It is true, military persons may say, that this warning of mine concerns them no more that it doth those who officiate both in Church and State, and neither indeed doth it.”

Under the phrase—proportionating the punishment to the crime, or suiting the sentence to the delinquency, there used to be a fearful latitude of penal infliction exercised by courts-martial. Vindictive or revengeful punishments are calculated to do more harm than good. In the present state of the army, military punishments may require to be more severe than the common penalties of civil law; but when they exceed the bounds which a due regard to justice and mercy, equity and utility prescribe, they only deprave the mind, and probably tend to promote perseverance in misconduct.

"Pain," as has been observed by Sir Robert Wilson, "will not reform; the discipline of the mind is far more efficacious than the discipline of the body; and how much more satisfactory!"

It does not appear that drummers were specially employed to execute the sentences of courts-martial, before the beginning of the eighteenth century. Sir James Turner says, "When regimental hangmen are wanting, capital crimes must be punished by harquebusiers, and scourging must be converted into the gatloupe." The duty of carrying the sentence of a court-martial into effect belonged, during the reign of William III., to the Provost Marshal, who made out a contingent bill to defray expenses for execution, including his fees. The contingent expenses of a Dutchman who was Provost Master General in Ireland, under William III., amounted, in one campaign, to 307*l.* 10*s.*: a manuscript copy of this bill is preserved in the British Museum, from which the two following entries are taken. The spelling is that of a Dutchman not well acquainted with the English language:—

1691, February 25th.—Brought in arrest William Waters, for a repery and do.; remained to the 5th March, after he had severely been whipped with rods, 28th day of February.

	£ s. d.
For nine days' diet, at 6 <i>d.</i> a day . . . . .	0 4 6
For reading of the sentence . . . . .	0 2 6
For whipping . . . . .	0 5 0
For locking and unlocking . . . . .	0 2 6

The cat-o'-nine-tails appears to be an invention of a later date than the reign of William III.:—

Kilkenny, 9th of June, 1691. Have been sent in arrest by order of His Excellency the Lord of Sgravemore, two persons named Thomas Trassi and Philip Wodli, being both raperies; and remained in the arrest until the 11th of February, when the same, in pursuance of the sentence and approbation of the Lord of Sgravemore, in Kilkenny, have been punished with the rope to death.

	£ s. d.
For thirty-three days' diet, at 6 <i>d.</i> each a day . . . . .	1 13 0
For extraordinary treats after the sentence of death of the patients, as otherwise, each 6 <i>s.</i> . . . . .	0 12 0
Paid unto the three servants that have sat up with, and served, the patients after the sentence of death, according to custome, 2 <i>s. 6d.</i> a day, for two days and a night . . . . .	0 15 0
For the reading of the sentences . . . . .	0 2 6
Unto the executioner, for hanging and taking downe, as otherwise, 10 <i>s.</i> a-piece, is together . . . . .	1 0 0
For the ladder, ropes, and bolts . . . . .	0 3 0
For the locking and unlocking of each, 2 <i>s. 6d.</i> . . . . .	0 5 0
For assisting in the execution, according to custom, for me . . .	0 10 0
For the Liftenent . . . . .	0 4 0
Paid for burying, unto the servant, 2 <i>s. 6d.</i> each . . . . .	0 5 0

(Grose, *Military Antiquities.*)

With reference to the circumstance of a person being hired to read the sentence, a duty now performed by the Adjutant, it may be observed, that prior to the year 1773, according to ancient usage in Scotland, sentence of death was first read by the clerk of the court from the engrossed record, and repeated by the macers, after which it was uttered in a discordant tone by the *doomster*, or hangman, who was brought from a retired part of the court for the purpose, on the ringing of a hand bell, placed on the desk of the judge. The hangman of Edinburgh, though now banished from the court, is still in one sense a member of the College of Justice, being a stipendiary of the Exchequer.

It seems probable that the modern military punishment of flogging is derived through the gauntlet from the Roman *Fustarium*, the *bastinado*, *stick-beating*, which was much practised in the Roman army. Offences committed by soldiers were by the Romans much more severely punished than in civil life. A Roman freeman, even in the remote provinces, could not legally be scourged.—(Acts xxii., 25.) No such tenderness was, however, shewn to soldiers: for we find in their history frequent allusion to corporal punishment, particularly the infliction of scourging or flogging, which was executed with rods, or vine-saplings.

When a soldier was to suffer the bastinado the Tribune first struck him gently with a staff, on which signal the soldiers of the legion fell upon him with sticks and saplings, and death was sometimes the consequence. In addition to flogging by running the gantlope, the other punishments of the Romans were fines, imprisonment, degradation, banishment, depriving an offender of his accoutrements, hard labour, the stocks, and coarse bread. Their more severe punishments consisted in cutting out a criminal's tongue, amputating his hands, excising a knee-bone, slavery, stoning, and beheading. It is alleged, however, that young soldiers, *tyrones*, were exempted from the severity of military punishments, partly because of their presumed want of knowledge and experience, and partly on account of their youth and want of mature judgment. It may be remarked that, according to Sir James Turner, a Provost Marshal, in his time, executed the functions of a Roman Tribune when a soldier was to be scourged. “The Provost Marshal,” says Sir James, “is to be present at the execution of every sentence; and when a soldier is to run the gantlope he is to give him the first lash.”

Bruce, who published his work (*The Institutions of Military*

*Law*) in 1717, has a long chapter on military crimes, with the punishments awarded thereto. The punishments he enumerates are—*death*, which might be awarded to a great number of delinquencies, the secondary punishments being *stigmatizing* (branding) *in the forehead*, *cutting off the ears*, *forfeiture of three months' pay*, *degradation to the quality of a pioneer-scavenger*, and *riding the wooden horse*. Flogging is not mentioned. At this time the criminal law was cruel and inexorable. The law which punished with death the offence of privately stealing in a shop, property to the value of 5*s.* was enacted in the year 1699. Two years after it had passed (in 1701), an anonymous writer published a tract to propose that hanging was not a sufficiently severe punishment for murder, burglary, or highway robbery. “If death,” says he, “be due to a man who surreptitiously steals the value of 5*s.*, surely he who puts me in fear of my life, and breaks the King's peace, and, it may be, murders me at last, and burns my house, deserves another sort of censure; and, if the one must die, the other should be made to feel himself die.” And the author accordingly proposes breaking upon the wheel and whipping to death as punishments proper to be adopted.

The injurious effects of corporal and disgraceful punishments are, however, recognised by the 5th Anne, cap. 6, repealing the 11th and 12th William III., which directs that persons convicted of theft “shall be burned in the most visible part of the left cheek.” “And whereas,” says the Act, “it hath been found by experience that the said punishment hath not had the desired effect by deterring such offenders from the commission of such crimes and offences; but, on the contrary, such offenders, being thereby rendered unfit to be entrusted in any honest and lawful way, become the more desperate,—be it therefore enacted, that the aforesaid clause shall be and is hereby repealed.”

The principal object of punishment being the reformation of an offender, much care should be taken in regard to the kind and degree of the punishments inflicted. A man who is branded having completely lost his character, and all hope of ever regaining it, is apt to become more disposed to injure, to circumvent, and to betray than ever. Wherever his road lies he bears with him the mark or the remembrance of his infamy. His hand is against every man, and every man's hand against him.

We learn from Bruce that in his time (1717) “by the *sea-laws* of most of the maritime powers it was ordered, that whoever draws a sword, dagger, knife, &c., upon his fellow, is either to have a

*knife struck through his hand, and drawn out betwixt the fingers, or is to be keel-hailed*, although he have been prevented, and has given no wound ; but beating or wounding with any other weapon is now commonly punished with the loss of the right hand."

As a specimen of the severity of the laws and usages of war about the middle of the last century, I have subjoined the following brief extracts from Orders issued during the campaigns in Flanders :—

All men who are found gathering pease or beans, or under the pretence of rooting, to be *hanged*, as marauders, without trial.—(*Orders by the Duke of Cumberland*, 1748.)

Any sutlers that refuse to change the men's money, or demand a reward, or oblige them to drink in order to get their money changed, shall be *plundered*, and turned out of camp.—(*Orders by the Duke of Cumberland*, 1747.)

The first officer who sends his baggage before the march of the army, or out of its proper place, shall have it *plundered*, and the said officer shall be brought before a court-martial, and tried for disobedience of orders.

Among the punishments to which sutlers and camp-followers were liable, I may mention the *whirligig*. "This was a circular wooden cage, which," according to Grose, "turned on a pivot, and when set in motion wheeled round with such amazing velocity that the delinquent became extremely sick, and commonly emptied his or her body through every aperture."

A military essay was published in 1761, by Lieutenant-Colonel Dalrymple, from which we learn that by that period whipping was employed as a military punishment. As a means of preventing crime in the army, Colonel Dalrymple recommended that the regiments should be raised and recruited in particular counties. "It is very difficult," says our author, "from the kind of men that we get, to avoid frequent and severe punishments, especially in time of war, when, from the scarcity of men, we are not to *whip* out of a regiment perhaps a good but vicious soldier ; yet *we do more than perhaps is absolutely necessary*. There is a kind of spirit of honour in the most profligate of the soldiery, which being strengthened greatly by the regiments becoming provincial, will give leave to think that they might be worked upon in that way and by confinement ; for frequency of *flogging*, and for *every crime*, renders it less exemplary, and lessens the shame attending it. Now to vary the punishment might, therefore, be a means to deter old offenders, and by making a man to run the gauntlet, and to be severely punished by his companions, might have some effect upon him, at least it would affect the humanity

of the men, who thereby disliking to punish, would afterwards avoid deserving the like penalties."

Flogging has been long the principal secondary punishment in the British army. In the early part of the last century, it was inflicted by means of rods, and by hired executioners; but that mode having fallen into disuse, the present system was adopted, by drummers with the cat-o'-nine-tails. During the rebellion in Scotland in 1745, the cat was much employed by the army, to extort evidence, as well as to punish soldiers. We learn by the Jacobite memoirs, that a sentry, who had been convicted of allowing a prisoner to escape, received 500 lashes with it.

For a long time the cat-o'-nine-tails has not been used in the British army except by the sentence of a court-martial, and in the presence of a medical officer. At what particular date the formality of a court-martial became essentially necessary, I have not learned. In a General Order, which was issued in Canada on the 14th November, 1759, it was announced that "any soldier that is found drunk will receive twenty lashes per day, until he owns where he got the liquor; and his allowance of rum will be stopped for six weeks."—(Captain Knox, *Historical Journal of the Campaign in North America*, vol. ii. p. 206.) No court-martial seems to have been required in carrying the above punishment into effect; and it is obvious that the cat was to be used as an instrument of torture, with the view of extracting evidence. Until 1836, there was no limitation to the extent of the sentence of a general court-martial; "bounds were not set to shew the maximum of punishment;" everything, in this respect, was left to the discretion of the court.

Whipping or flogging was, according to Samuel (*Account of the British Army*, 1816) a refinement on the former modes of chastisement, increasing the rigour of punishment by prolonging the duration of it, if not the intensity of pain, probably in consequence of the change which had taken place in the condition of persons of whom our armies were subsequently composed. The military ranks in remoter periods were filled by men of some substance, and generally of landed property, who had ability to make atonement for slight offences by pecuniary mulcts,—a composition conformable to ancient usages. The interest of certain officers in the fines of soldiers must have favoured and co-operated with the policy which thus directed itself to the purse, rather than the person, of an offender. When the pursuit of the camp was afterwards preferred as a profession, a pecuniary expiation of

crimes could not be countenanced in the military code ; and hence, from altered circumstances, flogging was substituted in its stead. “ A species of punishment,” says Samuel, “ which, if not exceptionable in itself, is, from the frequency of its use, and the strange extent of its application, not less discreditable, as it is supposed by many well-directed minds, to the spirit of the military law, than the general character of our armies.”

On the 7th February, 1749-50, the following question was submitted to the House of Commons :—“ Whether a clause ought not to have been added to the Mutiny Bill for preventing any non-commissioned officer being broke or reduced into the ranks, or any officer or soldier being punished but by the sentence of a court-martial.” The Earl of Egmont, who spoke in favour of the introduction of the clause, maintained that “ We ought to be careful not to give the meanest soldiers of our army an occasion to think that they are in a state of slavery. On the contrary, we should, as far as is consistent with the nature of military service, furnish them with reasons for rejoicing in their being English soldiers, and, consequently, in a condition much superior to that of the slavish armies on the continent. And as this of inflicting punishments by the sole and arbitrary will of a commander, is a power that has been very seldom exercised in time of war, it cannot, I think, be necessary in time of peace.” Another member, who advocated the same side of the question, said—“ Gentlemen may talk of the happy condition of the soldiers of our army, and of its being preferable to that of the soldiers of any other army ; but no man that reflects can think himself happy whilst he is liable to be punished at the mere whim of any man whatsoever. And although I shall allow that a little *manual correction* may now and then be necessary, yet it is what a good officer will always be very sparing of.” The object of the clause in question, “ is to prevent any military commander taking upon him to subject a soldier to such as have always been deemed military punishments, by his own sole authority.” The clause was withdrawn, and the Bill passed. British soldiers had, I believe, for many ages been liable to the manual correction of officers ; and the result of this motion may be considered tantamount to an approval by the House of Commons, of that mode of inflicting punishment. It was not until after the commencement of the present century that effectual measures were taken to prevent soldiers being beaten by officers ; but I believe manual correction, or rather correction with the cane, did not fall into disuse in the East India Company’s army for a

number of years after it had been practically abolished in the British army.

It may be inferred, from a work which was published in 1761, entitled *Cautions and Advices to Officers of the Army*, by an Old Officer, that soldiers were at that time very liable to receive "manual correction" from officers, without any previous legal investigation. "Never beat your soldiers," says the Old Officer; "it is unmanly. Are they guilty of a crime? make them prisoners, let them be punished legally by the sentence of a court-martial, and my life for it they will never repine. But to see, as I have often done, a brave honest old soldier battered and banged at the caprice and whim of an arrogant officer, is really shocking to humanity; and I never saw such scenes, but it brought to my recollection the saying of a General to a young officer, perhaps the day after his joining the regiment, thrashing an old soldier,—very probably from no other cause but to shew his authority, or to look big in the sight of those who came to see him mount his first guard,—who called out to him, *That is well done, Sir; beat the dog, thrash him; for you know he dare not strike again.* This very consideration ought to be a sufficient restraint from the practice."

"Every man," says the Old Officer, "is capable of knowing and resenting ill usage, the low as well as the high. Change sides for instance. Suppose it had been your fate to have been born in so low a situation, or that by some cause, or reverse of fortune, you were reduced to the necessity of carrying arms for a maintenance, think how you would resent this treatment—how your soul would be torn with grief, rage, and shame, to be treated like a brute, who must be corrected into obedience. Though soldiers do in some measure part with their liberty when they enlist, yet the law is still as ready to screen them from violence, oppression, and tyranny, as it was before they entered the service; and surely it is a manifest infringement of the laws arbitrarily to punish at your own discretion, without the opinion of a jury, or sentence passed upon the culprit. I have been fuller upon this head than I at first intended, yet I cannot dismiss it without another caution, which is, that if you have unguardedly been guilty of beating a soldier, do not confine him afterwards: this is punishing him twice for the same crime, which no law upon earth, that I know, can justify. I remember once an officer came to his Major, who then commanded the regiment, and stated that a soldier had insulted him grievously, for which he had confined him, and

desired a court-martial on him. The Major added to the orders he was then giving to the Adjutant, one for a court-martial to try the offender on the morrow; when the officer said he had beat him so long as he had strength, or that stick (shewing the remains of an enormous one in his hand) would hang together. To this the Major replied "Had you, Sir, only confined the man for insulting you, as you told me, you should have seen strict justice done on the delinquent; but as you have thought proper to take your own satisfaction, you must be content with that, for no other shall you have from me. I cannot in conscience punish twice for the same crime;" and immediately cancelled the order for a court-martial, and ordered the Adjutant to set the man at liberty.

It does not appear that the officer incurred any penalty by this conduct; and hence, we may presume, that the manual correction of soldiers was completely sanctioned by custom, if not by law; in other words, officers executed their own sentences.

"Some punishments," says the Old Officer, "are inflicted by officers without the sentence of a court-martial, for which custom only can be pleaded, for I know of no other authority they have for it,"—such as, *tying neck and heels*, *riding the wooden horse*, and *picketing*.

*Tying neck and heels*, is thus performed :—

The criminal sits down on the ground, when a firelock is put under his hams, and another over his neck, which are forcibly brought almost together by means of a couple of cartouch-box straps. In this situation, with his chin between his knees, has many a man been kept till the blood gushed out of his nose, mouth, and ears, and ruptures have also too often been the fatal consequences, and a worthy subject lost to the service, or rendered incapable of maintaining himself when the exigencies of the state no longer require his duty. Can any one who has brought a man into such circumstances ever forgive himself? I think not.

This punishment must have had a similar effect to the *scavenger's daughter*, an instrument of torture formerly employed in the Tower, which is thus described by Dr. Lingard—(*History of England*, vol. viii., p. 521):—

The scavenger's daughter (says he) was a broad hoop of iron, consisting of two parts, fastened to each other by a hinge. The prisoner was made to kneel on the pavement, and to contract himself into as small a compass as he could. Then the executioner, kneeling on his shoulders, and having introduced the hoop under his legs, compressed the victim close together, till he was able to fasten the extremities over the small of the back. The time allotted for this

kind of torture, was an hour and a half, during which it commonly happened that, from excess of compression, the blood started from the nostrils, and sometimes, it was believed, from the extremities of the hands and feet.

This compressing instrument which is sometimes called *Skevington's gyves*, (fetters or irons,) but more commonly *Skevington's daughter*, was invented by Sir William Skevington, Lieutenant of the Tower, in the reign of Henry VIII. It acted by compressing the limbs and body, instead of distending them, as the rack. Shakspere perhaps alludes to Skevington's Daughter, when he makes Prospero say, in the *Tempest*,

He is a traitor!  
I'll *manacle* thy neck and feet together.

Torture was occasionally used in England so late as the Commonwealth; and in Scotland it was employed, to extort confession, down to the reign of William III., and not definitively abolished until the 7th of Anne. In Ireland, the use of it was renewed by the Military Judges of 1798.

Riding the wooden horse, and picketing, will be described in a subsequent page of this sketch.

"These punishments, barbarous as they are," says the Old Officer, "are only inflicted for petty crimes, as they are called,—such as coming to the field of exercise five minutes later than his comrades, or overstaying as many minutes the leave given him by his officer when on guard, &c. Will anybody say these trifling crimes deserve such severe, such dangerous punishment? I am aware that it may be asked, Are petty crimes and little neglects of duty, to escape with impunity? I answer, No. How then are they to be punished? By making the culprit do a double duty, that is, mount two guards instead of one, making him stand sentinel four hours instead of two. These, and several other methods that might be adopted, are in my opinion punishments sufficiently adequate to such trifles. Crimes of a deeper dye have their punishment allotted to them in the Mutiny Act and Articles of War, from which a court-martial cannot deviate, without very justifiable reasons. Punishments are necessary while men will be guilty of the committing of crimes; but all I contend for," says the Old Officer, "is, that they ought not to be arbitrary, or inflicted at the whim or caprice of any man whatever, merely perhaps to shew his authority, or to glut the cruelty of his disposition."

We have too much adopted the gothic system of correction—by rigorous severity, which often hardens the heart, instead

of pursuing a more rational plan of softening the mind in order to promote its amendment. The idea of the necessity of severe and revengeful punishments, has made such a deep impression on mankind, and perhaps in a special degree upon military officers, that it is very difficult of obliteration. We are unwilling to believe that punishments which we have seen frequently inflicted, and which have received the sanction of ages, however shocking they may be to our feelings, are not necessary and efficacious. Strange to say, the alleged opinions of even private soldiers in favour of the severe and degrading punishment of flogging, are adduced in support of that mode of penal infliction. How strong must the conservative influence of habit be, when it can produce such effects!

*Running the gauntlet* was used as a punishment at the period, (1760,) which is fully described by the Old Officer, who informs us that there was a clause in the former Articles of War where, in ordering it as a punishment, it was with this caution, “‘ Which is a punishment we think not fitting to be otherwise inflicted, than by the judgment of a general or regimental court-martial ;’ would to God,” says he, “‘ and I speak it with all imaginable deference and submission, the other punishments I have just been describing were as effectually guarded against ; and I am convinced it would be greatly to the advantage of the service.”

“In giving your opinion,” says the Old Officer, “in a regimental court-martial, endeavour to make a distinction in your punishments ; make them, as near as you can, adequate to the crime. I knew a set of officers sufficient for a court-martial, no more being with the regiment, who constantly allotted one number of lashes to all offenders.”

When flogging was frequent in the army, officers were very liable to follow a routine uniformity in their sentences, and to pay too little attention to the discrimination of particular cases, the character of individuals, or the best mode of preventing the commission of offences. The tendency of officers to follow in an old track became, from custom, to be considered by all ranks as the ordinary result of a court-martial. “Give yourself no trouble,” said a soldier who had been convicted of intemperance, to the members of a court-martial, who were deliberating upon the amount of his punishment, “in regard to the number of lashes; just put down the usual 200.” This was one of those numerous cases which occur in the army, where flogging does no good. Physical pain never cured a habit of intemperance ; and

when a good-natured, obliging offender is flogged, he is pitied and commiserated by his comrades, who think much of the punishment, and little of the delinquency. Punishment fails to deter from the commission of offences, when it is inflicted in opposition to popular opinion.

"Some soldiers," continues the Old Officer, "when they have once shewn their backs, become hardened to shame, and all the whipping in the world afterwards is insufficient to reclaim them; sometimes, however, a lucky start out of the common road has had surprising effects. I have heard of a soldier who used about once a week to be brought to the whipping-post. To this he was so hardened, that he once made this address to the court-martial,— 'Gentlemen, I am sorry to give you this frequent trouble on my account; but if you will please to order me 150 lashes every Monday morning, I will regularly come and receive them. This will be better for us all: it will save you the trouble of meeting so often, and me the confinements between the whippings.' This man was again sentenced to be whipped, and the Commanding Officer was determined to try an experiment with him, which, if it failed, he resolved to discharge so troublesome, indeed so worthless a fellow, out of the regiment. Accordingly, when the culprit had with great resignation and calmness suffered his hands to be tied up, as is the custom, the Commanding Officer ordered his breeches to be let down, and the lashes to be applied to his bare posteriors. This he thought himself authorised to do, as the court-martial had indeed allotted a certain number of lashes, but had not specified where they were to be applied. The fellow, hearing these orders, begged that he might be punished as a man, and not as a boy; that he might suffer any other way,—in short, that he might be shot, rather than undergo this ignominious punishment. His entreaties were, however, unavailing, and he received the lashes as directed. The effect answered beyond expectation, it brought a total reformation on him; he became one of the best men in the regiment, and in a short time was made a Sergeant, as a reward for his good behaviour. I have heard, also, of another man, upon whom punishment had no effect. The Commanding Officer observing that, notwithstanding all his vices, he had some very valuable qualifications, resolved to try another mode than whipping. It was not long before he had an opportunity of putting his scheme into execution; for the next fault, instead of being punished, to the fellow's great surprise he appointed him Sergeant! This opened his eyes, he applied

himself diligently to his duty, and became as remarkably sober and good as he had been the contrary before. These instances, amongst many others I could give, shew that severity is not always necessary to work reformation ; lenity, or a happy thought, will often prove more effectual ; at least, it is well worth the trial,—it is time enough to recur to the other if this fail."

Horne Tooke says, "The worst use you can turn a man to is to hang him ;" and I have no hesitation in alleging, that the worst use you can turn a soldier to, is to make a "flogging-block" of him for the example of others.

A soldier who thinks he has been aggrieved in the army may, even after being discharged, appeal to the civil jurisdiction of the country, and obtain a legal investigation of the alleged grievance. In July 1763, at the assizes of Winchester, before a special jury, a cause was tried, wherein George Dawson, lately a soldier in the 85th Regiment, was plaintiff, and three Lieutenants and three drummers were defendants. The action was brought for trespass and assault, and false imprisonment of the soldier. In the course of the evidence it appeared that one of the defendants (Lieutenant W——) had caned and imprisoned the plaintiff without just cause, and that the plaintiff received 300 lashes with a cat-o'-nine-tails, at the halberts, under colour of the sentence of a court-martial, of the proceedings of which no evidence was given by the defendants. After a long hearing, the jury found a verdict for the plaintiff, with 300*l.* damages,—against one Lieutenant 200*l.*, and 50*l.* each against the other two.

The following brief but comprehensive account of the punishments in the British army, is given in a work published about the year 1762 entitled, *Essay on the Art of War, &c.* :—"To be hanged, shot, sent to the galleys, chained to a wheelbarrow, or run the gantlope, are the military punishments of crimes now in use. The wooden mare, the picket, imprisonment, chains, bread and water, are the punishments of faults."

However harsh the treatment of soldiers in the British army may have been during the last century, and however barbarous the punishments, they were still more horrible in the Prussian army, as will appear from the following account of Prussian discipline, under Frederick II. :—

The privates of the Prussian army, composed of the scum, not only of the native population but of all other countries, could not present a very grateful spectacle. Fear of punishments, some of them extremely cruel, was the only curb to the hardened miscreant. Hence the officer

was led into the most revolting severities, the demoralized soldier into the most audacious excesses. The consequence was, that the men seized every opportunity to rid themselves of their tormentors, by desertion; and, as that was rendered very difficult, some of them even had recourse to suicide. We learn from Preuss that the Regiment of the Guard, one of the most distinguished and the most favoured in the army, and in which desertion in time of peace was rendered most difficult, lost from that cause, between the years 1740 and 1800, three officers, ninety-three subalterns, thirty-two musicians, and 1525 privates; and that, during the same period, there were 130 suicides, and twenty-nine soldiers executed for different crimes, chiefly child-murder. They had a notion that if they put an end to their own lives, they should incur everlasting punishment, whereas the spirit of the innocent child whose life they took would be sure to go to heaven, and they would have time to repent, and make their peace with God, before they suffered for the crime. Persons possessing any delicacy of feeling were deeply shocked at the daily exhibitions of running the gauntlet, caning, and other punishments. Even in Potsdam, this brutal spirit, transmitted down from the school of the old Dessauer, ruled with such vigour as long as Frederick lived, that when the new Queen, consort of Frederick William II., was receiving condolences and congratulations, she turned to Major Kunitzki, who had just been appointed Commander of the 1st battalion Royal Life Guards, and said, "The battalion could not have fallen into better hands. I hope that you may soon make it forget the torments which it has endured under General Sheelen."

It is doubly remarkable that other states sought in the military punishments of the Prussians the source of the glory acquired by them in the Seven Years' War. France adopted them when on the threshold of a new era; but many of the subalterns chose rather to be reduced to the ranks, than to take upon them the office of executioner. At Lille, the grenadiers of a regiment of four battalions shed tears of rage at the new regulations, and their commander, the Duke de Vauguyon, wept along with them: nay, another French officer, who was ordered to give a soldier twenty-five lashes, plunged his sword into his own body after the twenty-fourth.

It is true that, before the great king quitted the stage, more liberal sentiments in regard to the treatment of the common soldier had begun to gain ground. This is proved by a circular of General Mollendorf's, dated Berlin, June 10th, 1785. "For two years past," he says, "that is, ever since I have been Governor of this capital, it has been one of my first cares, for the honour of humanity, to put an end to the tyrannical and barbarous conduct of the officers to the privates; and I confess with pleasure, that in six regiments of this garrison I have perceived evident fruits from my efforts. In one regiment only, which I will not now name, the old practice, founded on erroneous notions, of keeping the common soldier to his duty by barbarous flogging, caning, and abusive language, is still the fashion. But I warn the commander who has hitherto pursued this practice, to desist from it, and to lead the private soldier more by ambition than by tyranny to that discipline and military dexterity which His Majesty requires. The King has no scoundrels, blackguards, dogs, and clodpoles in his service, but honest soldiers, as we are too, only that chance has

given us higher characters. For among the common soldiers many are as good, and some might perhaps be a great deal more clever than we. Every officer ought to rejoice in being the leader of soldiers eager after honour; but he is not so, if he degrades those whom he commands into so low a race of men." It is obvious that, under such circumstances, the soldier could not be fond of his profession. To watch doubtful men was a heavy task for the officers, both in garrison and in the field; and the King opens the Military Instructions for his Generals with fourteen rules for preventing desertion, as an essential part of their duties: without which all other qualifications for commanders would be unavailing. Nevertheless, in adverse circumstances, or for the sake of a fresh bounty, the men ran off in whole bodies, and especially during the Bavarian Succession War, before the face of the King himself. How odious the service was to natives of the country is attested by many ordinances; but neither that which decreed confiscation of the property of those who assisted deserters, nor that against cutting off the thumb to get free from the detested profession, could put a stop to those practices. Others sought to escape by giving themselves out for skinners' and executioners' men; but even this self-imposed infamy did not protect them in the Bavarian Succession War from compulsory enrolment in the partisan corps.—(*Court and Times of Frederick the Great*, vol. iv., p. 45.)

The ancient Romans enjoyed fights of gladiators, and combats of wild beasts, in which men and animals tore each other to pieces. Such scenes forcibly demonstrate to us, that with all their boasted refinement, they were essentially barbarians. What are we to think of the state of civilization in Prussia in the time of Frederick II., when such barbarities were tolerated as have been described? We cannot help concluding, that it had made but very little progress. Unless the animal propensities are subdued by moral and intellectual culture, the feelings are gross, and scenes of cruelty do not excite disgust. When the English army took possession of the island of Ceylon, in 1796, the Dutch ladies in Colombo used to ask the officers to let them know when any of the men were to be flogged, that they might have the pleasure of being spectators of the infliction. Some of the concomitants of civilization, such as wealth and prosperity, may exist in a society without much individual improvement or intellectual refinement.

The punishments inflicted upon non-commissioned officers and soldiers, as practised when Captain Grose published his work on *Military Antiquities*, 1786, or which had only recently fallen into complete or partial disuse, may be divided into two classes, namely, *corporal* and *pecuniary*. Under the first class may be placed—*death*, either by shooting or hanging; *whipping*, comprehending the gantlope; *riding the wooden horse*; *picketing*, and *imprisonment*. I apply the term *corporal punishment* to any personal

penalty, whether it be merely restraint or the actual infliction of pain. Under the second class are included—*fines, degradation, and suspension.*

First Class. *Corporal Punishments.*—The execution of the sentence of *death* by shooting, was carried into effect, he tells us, in the following manner:—

An execution party is named, composed of hardened deserters, or persons guilty of the same offence for which the party is to suffer; or if there are no men under these predicaments, the party is taken from the men next for duty, and a steady non-commissioned officer is chosen to command them. The prisoner is then brought from the Provost's, with his hands tied behind him, attended by the Chaplain of the regiment, and followed by the execution party. In this manner he is led along the line, guarded by a detachment of the regiment to which he belongs, or by one from the pickets of the army. On his arrival at the place of execution, after some short prayers, a cap or handkerchief being drawn over his eyes, he kneels down, and the execution party make ready, moving up within six or seven yards of him, and on a signal given by him, two-thirds of these present, fire; and if he should not be killed, as has sometimes been the case, the reserve step up close to him, and put him out of misery. All the troops then march by the body, that by the example they may be deterred from a like offence. The recruits, in particular, are generally made to file off close to it.

At a subsequent period, I find the following practice formed part of the ceremony of carrying the sentence of execution into effect.

After the criminal is declared to be dead, by the Surgeons who attend for the purpose, it is the custom to carry the mangled body three times round the parade, or place of execution, in order to render the example the more striking, and to impress the greater terror on the minds of the spectators.

*Whipping*, as now practised (in military language *flogging*), is comparatively a modern punishment in the army.

The history of the punishment of flogging is thus given by Grose:—

The gantlope (says he) was, in cases of theft, or some offence that affected the character or interest of the corps, practised in two ways. In one, called running the gantlope, the regiment was formed six deep, and the ranks opened and faced inwards, each man being furnished with a switch. The offender, naked to the waist, was led through the ranks, preceded by a Sergeant, the point of whose reversed halbert was presented to his breast, to prevent his running too fast; as he thus passed through the ranks every soldier gave him a stroke. But this method being found inconvenient, and in many cases objectionable, the offender was tied to four halberts in the ordinary way, three being

placed in a triangle, and the fourth across two of them, to keep him on the outside. In this situation the regiment filed off from the right, and marched by. When they came near the halberts, a cat was given to the first man; who, having given a stroke to the culprit, threw down the cat, and passed on. This was repeated by the whole regiment, each man giving him a lash. This, likewise, being found objectionable, as degrading soldiers to executioners, has been in a great measure left off, and the infliction of the punishment put into the hands of the drummers, under the inspection of the Drum-Major and Adjutant—the first to see the halberts are properly fixed, the cats in order, that each drummer does his duty, and is properly relieved after having given twenty-five lashes. The Surgeon is to take care that the prisoner does not receive more lashes than he is able to bear without *endangering his life*, or injuring his constitution; and the Adjutant to cause the sentence of the court-martial to be properly inflicted, and to oblige the Drum-Major to make his drummers do their duty.

Whipping is almost the only corporal punishment now in use. This was formerly inflicted with switches, but for these *thirty years*, at least, except running the gantlope, with what is called a cat-o'-nine-tails; being a whip with nine lashes, each lash knotted with nine knots. This punishment is inflicted either by the soldiers or drummers of the regiment, according to the sentence of the court-martial.

Whipping appears to have been used, until a comparatively late period, in hospitals and in lunatic asylums, as a remedial means or a necessary measure for promoting a due degree of discipline among patients. "I observed," says Thunberg, "in this place (the Cape of Good Hope) what I never saw anywhere else, namely, that the attendants of the sick were provided with *ropes' ends*, with which they now and then corrected turbulent patients. *Mirum sane morborum remedium.*"—(*Travels, &c., Third Edition*, vol. 1, p. 248.) It has been recorded, that in an establishment for the insane in France, each patient received ten stripes daily; but even in our own country stripes, fetters, cold, darkness, and solitude, with the total absence of every bodily comfort, was, until lately, the established discipline of receptacles for lunatics. Physical pain and moral misery were, it appears, long considered as specially calculated not only to repress vice and promote good conduct, but also to restore the unsound mind.

Of the many revolutions which have taken place in modern times, there is none so remarkable as the change from the mere cells of durance, with their apparatus of straw, whips, chains, and straight waistcoats, in which the lunatics were kept, to the palaces in which they now dwell, and the comfort they now enjoy. In the army, also, a great improvement has taken place in this respect; the cat-o'-nine-tails is not now considered so indispensable and so

efficacious a means of preserving discipline as it was formerly, other measures of a less revolting character having been found adequate to repress irregularities and enforce subordination.

Running the gauntlet, from which the more modern punishment of flogging in the army originated, had not been completely abandoned when Dr. Hamilton published his work, *The Duties of a Regimental Surgeon considered*, in 1787, (*Second Edition*, 1794). "Different regiments," says he, "use different methods of punishing; in some to run the gauntlet is customary. Here, instead of cats, rods of willow are made use of. The whole regiment are drawn up in a line two deep, face to face—every man is furnished with a willow. The prisoner runs naked the whole length of the line, and every man strikes as he passes. No regard can be paid in this way to the part they strike, hence the ribs as well as the shoulders are wounded." While the delinquent runs the drums beat at each end of the ranks; sometimes he runs three, five, or seven times along the line, according to the nature of the offence. The Major of a regiment superintends the punishment, and takes care that every soldier does his duty. In 1805, when Major James published the second edition of his *Dictionary*, this punishment had become unknown in the British army.

The gauntlet is still employed in the Austrian army, being the utmost secondary punishment to which a soldier is liable. The punishment "consists in making the offender, who is naked to the waist, walk up and down a street formed of two rows of men, each of whom carries a switch of birch in his hand. The pace is left to the choice of the sufferer; who, however, generally prefers the ordinary marching time. The street of men is about 100 yards long, and consists, in some cases, of two rows of 150 men in each, facing one another." The Colonel of the regiment (not the Lieutenant-Colonel) may, on his own authority, order an offender to run three times up and three times down a street formed of 100 men on each side. A court-martial may, according to one authority, sentence a man to pass the street six times up and six times down; and by another authority, ten times up and ten times down, but not more. The punishment of the gauntlet is chiefly inflicted for the crimes of desertion or theft.

The ordinary effects of the gauntlet are excessive tumefaction of the shoulders and ribs; the parts do not usually ulcerate, but the sufferer is commonly some time on the sick list, being unfit for duty.

*Riding the Wooden Horse.*

The wooden horse (says Grose) was formed of planks laid together so as to form a sharp ridge or angle, about eight or nine feet long. This ridge represented the back of a horse; it was supported by four posts, or legs, about six or seven feet long, placed on a stand, made moveable by trucks; to complete the resemblance, a head and tail were added. When a soldier or soldiers were sentenced by a court-martial, or ordered by the Commanding Officer of a corps to ride this horse, *for both were practised*, they were placed on the back, with their hands tied behind them, and frequently, to increase the punishment, had muskets tied to their legs, to prevent, as was jocularly said, their horse from kicking them off; this punishment being chiefly inflicted on the infantry, who are supposed unused to ride.

There appears, however, to have been some variety in the mode of infliction, as may be seen by the following extract from Knox's *Historical Journal of the Campaigns in North America in the years 1757-60*, vol. i., p. 96:—

Yesterday a court-martial sat on a grenadier, for absenting his command when attacked by the enemy: he was found guilty of cowardice, and I think (says our author) the particular punishment ordered for him evinces great discernment in the members of the court. Their sentence ran thus:—It is the opinion of this court that the prisoner is a notorious coward, and they sentence him to ride the wooden horse half an hour every day for six days, with a petticoat on him, a broom in his hand, and a paper pinned on his back, bearing this inscription—“Such is the reward of my merit;” which sentence was duly executed.

This man conducted himself, in many subsequent conflicts with the enemy, in a manner equal in courage to the bravest of the army. Few persons are, I believe, at all times equally disposed either to attack or resist an enemy; and it may be doubted whether a coward was ever made a brave man by disgracing him. Perhaps, however, alleged cowards are punished as an example, for the purpose of rendering men more afraid of the triangles than of the enemy, and hence an attempt is made to excite courage by the passion of fear.

The Chinese adopt this plan to prevent cowardice. Among many other duties of a Chinese soldier in warfare, it is ordered that “he who hears the drum and does not advance, or who hears the gong and does not retire, shall suffer the same punishment. Strict adherence to the severities of martial law is the only way to make brave men of cowards.”

According to the Old Officer, the punishment of riding the wooden horse was sometimes inflicted in a very summary way. “I have seen,” says he, “an officer led drunk between two men to his guard, who immediately called for his Sergeant to enquire into

the state of it, who reported a man to him for being drunk. The officer, though he could scarcely speak to be understood, ordered his brother drunkard to be set on the wooden horse as soon as he (the soldier) was sober. I daresay the Sergeant thought that the officer should have been mounted with the soldier." The *cheval de bois* was employed also in the French army, not only for soldiers, but for ladies of easy virtue who were caught in the barracks.

This punishment is alluded to by Sir Walter Scott, in the fourth chapter of *Old Mortality*, where Halliday says, "We'll have him to the guard-house and teach him to ride the colt foaled of an acorn, with a brace of carbines at each foot to keep him steady."

*The Picket*—"This punishment," Captain Grose inform us, "was chiefly used by the cavalry and artillery; and in the former, often inflicted by the order of a Commanding Officer, without the sentence of a court-martial." The following was the mode of inflicting this punishment:—

A long post being driven into the ground, the delinquent was ordered to mount a stool near it, when his right hand was fastened to a hook in the post, by a noose round his wrist, drawn up as high as it could be stretched; a stump, the height of the stool, with its end cut to a round and blunt point, was then driven into the ground near the post before mentioned, and the stool being taken away, the bare heel of the sufferer was made to rest upon the stump, which, though it did not break the skin, put him to great torture; the only means of mitigation was by resting his weight upon his wrist, the pain of which soon became intolerable. Soldiers were frequently sentenced to stand on the picket for a quarter of an hour. This punishment, like the riding of the wooden horse, has been for some time left off, it having lamed and ruptured many soldiers.

Dr. Hamilton (who published his work about the same time as Captain Grose) speaks of the picket and riding the wooden horse as being in use when he wrote. Punishment by the picket, or peg, was used for, perhaps, twenty years of the present century. In 1816 I know it was much employed in a regiment of cavalry on the Bombay establishment. The instrument here employed consisted of a board, and a peg; the board, or block of wood, was about twelve inches long, eight broad, and four thick. The peg, which tapered to a point about the size of a sixpence, was twelve inches in length, and inserted in the middle of the board. The punishment was inflicted as above described, the delinquent's right arm being fixed to a hook, and his left foot resting on the peg, while his left arm and right foot were tied together behind his back. Delinquents were sometimes kept on the peg for a period

varying from ten to thirty minutes ; and occasionally they fainted, either while on the peg, or after they had been taken down.

This punishment was inflicted by order of the Commanding Officer for what are called minor offences, such as being absent from parade, or from stables. It was commonly left optional with a defaulter to submit to the punishment of the peg, or to be tried by a court-martial. Sometimes as many as six or eight men were placed on the pegs at one time. The boards, pegs, and ropes, were kept in the guard-room, and regularly entered in the Morning Report, along with the other articles of guard-room furniture.

The punishment may be said to have been privately inflicted, no person being commonly present in the riding-school when it took place but the delinquent, the Sergeant-Major, and the Medical Officer to whom was confided the discretionary power of deciding upon the length of time a man was to stand on the picket. In Spain, the picket was employed as one of the tortures of the Inquisition.

*Imprisonment.*—“ Soldiers are sometimes,” says Captain Grose, “ confined by the sentence of a court-martial for a short time in the black-hole, or locked up in a bread-and-water house ; that is, a place of confinement, where they have no other nourishment but bread and water.”

The punishment of imprisonment appears to have been sometimes employed as a means of oppression unwarranted by the usages of the service. During the month of October 1787, a Major Browne, of the 67th Regiment, was tried by a court-martial on a charge of cruelty to Thomas Edwards, a private soldier. He was found guilty, not of *cruelty* but of *oppression*, and was sentenced to be suspended from pay and duty 309 days, the time during which he had confined the said soldier, without trial, and he was also sentenced to pay the soldier 40*l.* This is a very rare example of retributive justice in the army.

Commissioned officers were at one time liable to be punished by fine and imprisonment ; but both of these have become obsolete as military punishments. By the Mutiny Act during the reign of George I., “ an officer destroying the game shall forfeit 5*l.* to the poor ; and the Commander-in-Chief is to forfeit 10*s.* for every such offence committed by a soldier under his command.” At present, any officer who shall, without leave, take, kill, or destroy game, may be brought before a Justice, and fined the sum of 5*l.*

*Second Class. Pecuniary Punishments.*—“ Soldiers of the present times,” says Captain Grose, “ having nothing but their bodies,

can only be punished corporally." They were, however, indirectly liable to certain pecuniary fines, such as—

*Degradation*.—This is a punishment inflicted on non-commissioned officers, before they can receive any corporal punishment except imprisonment.

Markham (*Epistles of War*, 1622) informs us, that this was one of the punishments of criminals. "When," says he, "any common soldier shall commit a slight offence savouring either of carelessness, slothfulness, or baseness, then presently take away his sword, and make him a pioneer; which in times past I have known so hateful and intolerable to every quick and understanding spirit, that they would, with more alacrity, have run to the *rack*, the *bolts*, or *strappado*, nay, even to death itself, rather than to the moral degradation."

*Suspension for a stated time*.—This punishment is sometimes inflicted on non-commissioned officers; and during its continuance they receive only the pay of private men, the remainder being given to the hospital.

To the foregoing punishments enumerated by Captain Grose, the following may be added; of which the greater number were in use when he wrote, and some have been employed until a comparatively late period.

*Clubbing*.—This after-punishment was practised upon the bodies of criminals, particularly by the British Generals who were employed in the Netherlands, about the middle of the last century. After a prisoner has been executed in the usual manner, he is suspended with the feet upwards, which is said to answer to the custom authorised by the civil law of hanging certain malefactors in chains, as a terror to others, on the spot where they committed their depredations. The gibbet, with its attendant human scarecrow, was once not an unfrequent object of English scenery, more especially on the banks of the Thames; yet these exhibitions did not prevent or diminish crime. The injurious effects produced by hanging men in chains on the most interesting sympathies of our nature, may be inferred from the following example:—There was a criminal exposed near a turnpike on a road leading from a provincial town in Derbyshire. His widow, whenever she went to market, used to lock the door of her house, and taking her little children with her to the foot of the gallows, would leave them to play *under the care of their father*, as she callously expressed it, until it was convenient for her to call for them again on her way home.

*Removal to the Navy*.—A soldier, who behaved ill, and who, in consequence of frequent delinquencies, was deemed incorrigible, was occasionally turned over to a press-gang. This transfer did not, however, occur without some sort of concurrence on the part of the soldier, who was left to choose between the execution and continuance of a severe military punishment, or to enter on board one of His Majesty's ships.

*Cold Burning*—*Bottling*.—This punishment is thus inflicted:—The offender is set against the wall, with the arm which is to be *burned* tied as high above his head as possible. The executioner then ascends a stool, and having a bottle of cold water, pours it slowly down the sleeve of the delinquent, patting him, and leading the water gently down his body till it runs out at his feet; this is repeated to the other arm, if he is sentenced to be burned in both. Bottling was at one time much in use in the cavalry branch of the service.

*Cobbing* is a punishment which used to be inflicted upon a soldier by his comrades for petty offences committed among themselves, sometimes with the sanction of the officers of his company, or of the Commanding Officer of the corps. It consisted in bastinading an offender on the posteriors with a cobbing-stick or a cross-belt. Cobbing was chiefly practised in the infantry.

*Booting* is a punishment which was principally used in the cavalry. It consisted in flogging a man with a belt on the soles of the feet. Previous to the infliction of cobbing, or booting, the delinquent is fairly tried by a court, consisting of—a president, the oldest soldier; members, next two oldest soldiers, youngest soldier, next youngest soldier.

These modes of punishment, by delivering a man to the tender mercies, or rather to the vengeance or wild justice of his comrades, were liable to serious evils, although their abolition has been regretted by many experienced officers. In the early part of 1828 a squadron of dragoons was stationed at Sheffield barracks. A man was suspected of stealing a watch from one of his comrades, and the men of his regiment dragged him to the river for the purpose of inflicting summary punishment upon him. The Major commanding and another officer were in the yard, who, no doubt, ascertained what they intended to do with the man. The inhabitants of Sheffield complained of the conduct of the officers in countenancing the ill-treatment of the soldiers; and finally the alleged culprit brought his action against the officers, which was tried at the York assizes, and he recovered 500*l.* damages. The

officers afterwards applied to have the verdict set aside, on the ground of excessive damages, but the court refused the application. This punishment of the officers did not end here, for after the trial some persons addressed the Duke of Wellington, then Commander-in-Chief, complaining of these officers, in this instance, not supporting proper discipline. A court of enquiry was ordered, and from the evidence given, it was clear the officers had not put a stop to the irregularity, which they could have done, and they were reprimanded by the Duke for such neglect.

*Church Pillory*.—A circumstance occurred on the east coast of England, in 1797, which led to a soldier being punished in the following ignominious manner:—During the alarm which prevailed regarding an invasion on the east coast, but especially along the coast of Essex, a Sergeant belonging to a militia regiment unwittingly said, in the hearing of some soldiers, that the French would dine at Ipswich on Sunday following. This expression soon spread among the inhabitants of the place, and a formal complaint was made to the General of the district. The offender, having originally belonged to the line, and bearing the best of characters, was so far considered as not to be tried by a general court-martial; but for the sake of example, he was ordered to be escorted to the church nearest to the coast (Colchester), and on Sunday to appear in the front of the church, and there to *ask pardon* of the inhabitants for the alarm he had created.

The public exposure of an offender is liable to many objections: it is unequal in its operation, and the efficacy of merely disgracing delinquents is very doubtful. Infamous or disgraceful punishments prevail chiefly in a barbarous state of society, and by the influence of civilization they gradually fall into disuse. As an example of the progress of public opinion, in regard to ignominious punishments, I may, though much out of place, instance the disuse of the penance of church pillory in Scotland. The stool of repentance, *alias* the cutty stool, or black stool, to which delinquents were sentenced by Church Courts, was long the opprobrium of this part of the United Kingdom. It at length fell into disuse, towards the end of the last century.

About a hundred years ago, the Rev. Peter Nicholson, of Kiltarlity, sentenced Lord Lovat to occupy the cutty stool; an order which sadly militated against the pride and wishes of his Lordship. Being, however, assured that the law of the kirk was imperative, and that nothing but compliance would save him from excommunication, he consented to the punishment, upon a promise

from the clerk that he should stand by him, for three Sundays, in the church of Kiltarlity. Mr. Nicholson being about to address the lordly occupant of the stool of repentance, Lovat exclaimed, “Ah ! Nicholson, you ungrateful man ! was it not I that placed you there ?” (having presented him to the living). Whereupon Mr. N. answered, “True, my Lord ; you have placed me here, and I have placed you there to-day, to be publicly rebuked for your sins.”

Young men of fortune sometimes made light of the stool of repentance, being attended by others of their own age and circumstances of life, who, to keep them in countenance, stood with them in the pew, or pillory, fronting the pulpit, so that many of the spectators were unable to distinguish the culprit from his companions. The contempt of the punishment led to a sum of money being levied in place of it, which was called a composition ; and, according to Captain Burt, the kirk treasurers gave regular receipts and discharges for each specific delinquency.

The stool of repentance was a relic of the Romish Church, being one of the few modes of church discipline which was continued after the Reformation. The reply of an old woman to John Knox, respecting this stool, is worthy of record. After holding forth in praise of the Reformation, and railing against the wickedness of Popery, he zealously exclaimed, “*I hae plucked the raiment frae the harlot.*” “Ah ! na, na,” said the old lady, pointing to the chair of repentance, “*ye hae keepit the vera tassel o' the breeks o' Popery.*” It has been supposed, and perhaps with justice, that Knox retained the cutty stool as part of the Presbyterian discipline, for the purpose of enabling him to apply the severe rod of Church censure against the looseness of the times, and the vices even of the nobility.

The stool in question was made somewhat like an arm chair, being a little higher than the other seats, and placed directly in front of the pulpit. When the kirk bell was rung, the delinquent ascended the chair, and the bellman arrayed him in the black sackcloth gown of unchastity. Here he stood for three Sundays successively, his face uncovered, and was reprimanded from the pulpit immediately before the blessing was pronounced. Females stood in the same accoutrements, and were commonly denied the privilege of a veil. It appears, however, that the gown was frequently dispensed with, and that delinquents were also sometimes permitted to cover the face. Many queer stories are current respecting the cutty stool exhibitions.

The stool of repentance was not peculiar to Scotland, it was employed in England. An Essayist, in the *Gentleman's Magazine* for May 1732, observes, that "The stools of infamy are, the *ducking stool* and the *stool of repentance*. The first was invented for the taming female shrews. The stool of repentance is an ecclesiastical engine, of Popish extraction, for the punishment of fornication and other immoralities, whereby the delinquent publicly takes shame to himself, and receives a solemn reprimand from the minister of the parish." This instrument of penance, or punishment, fell into disuse in England long before it was abandoned in Scotland.

*Blistering.*—We are informed by Sir Charles Napier that blistering was successfully tried as a substitute for flogging in two corps, and he is not aware that this mode of punishment was adopted in any other regiment. The Commanding Officer of one of the regiments in question, then stationed in Guernsey, where liquor is cheap, determined to try to put a stop to the crime of drunkenness on duty, by an appeal to the honourable feelings of soldiers, and at the same time to make drunkenness as unpleasant as possible, but without the lash. He gave out an order to say that he would not flog, but trust to the soldiers' self-respect for keeping sober on duty. Next day a man was drunk and confined. The Colonel, accompanied by the Surgeon, went to the guard-house, and felt the drunkard's pulse: he was declared to be in a fever. Nothing could be more true. He was therefore put into a blanket, and four soldiers bore him through the barracks, his comrades all laughing at the care taken of him; on reaching the hospital the patient was put to bed and *blistered* between the shoulders, fed on bread and water for a week, and then discharged cured. He was then brought on the parade, when the Commanding Officer congratulated him on his recovery from the fever, and sent him to join his company, when he was laughed at and jeered by his comrades during the space of a week. Many others underwent the same treatment; but the joke, though very amusing to the sober soldiers, soon began to be none to the drunkards. There was considerable pain and uneasiness—some bread, plenty of water; but no pitying comrades—no commiseration—no mercy. The experiment was completely successful. Not a man of that regiment was flogged in Guernsey from the time the men were treated with blisters; and after a fortnight there was no such thing as a man drunk for guard or parade. Now *this regiment had been in an infamous state.* "Observe," says Sir Charles,

"the consequence of having inefficient means. This same regiment was embarked for the Bermudas. There was at that period much drinking and much illness in these islands, rum being cheap and the blister-plaster scarce. There was no means of confinement, and the Lieutenant-Colonel, for want of efficient means, was obliged to use the lash, which punished without preventing drunkenness. Now the blister did prevent it in Guernsey. So much for inefficient means."

*Reprimand.*—Non-commissioned officers or private soldiers are seldom sentenced by a court-martial to be *reprimanded*. There is a very remarkable instance, however, on record of a Corporal being formally reprimanded by a General Officer, apparently as a commutation of a sentence of another kind. The matter will appear in the animadversion made by the General Officer to whom the proceedings were reported, in his Orders to the garrison.

*Orders by Lieutenant-General Cornwallis, Commanding at Gibraltar.*

17th March, 1764.

Lieutenant B——, of the 54th Regiment, tried by a general court-martial, and found guilty of leaving his guard, contrary to Orders, is adjudged by the court to receive a public reprimand from the Governor. The Governor does, therefore, in this public manner, reprimand him, and orders him to be released from arrest.

Corporal James, of the same regiment, commanding the signal-house guard, was tried by a regimental court-martial, the same day, for a like neglect of duty, and was ordered to be reduced, and to receive 200 lashes. The Governor pardons him, thinking a neglect of duty in a commissioned officer more heinous than in a non-commissioned officer, who is not supposed to have the same education, and is, of course, more liable to err. Justice is the same in high rank as in low. Lieutenant Bond gave him as good a character in his situation as Lieutenant-Colonel Welsh did the Lieutenant. Therefore, to do strict justice to both, the Governor reprimands, in this public manner, Corporal James.

The General is supposed to have fallen into an irregularity in commuting the judgment passed by the court-martial; unless he be considered to have remitted the sentence, and then to have given the reprimand, as he certainly had a right to do, in virtue of his own authority.

According to the remarks upon the following case, it appears that there are cogent objections to the sentencing of non-commissioned officers and soldiers to be reprimanded.

*Bengal Presidency.—General Orders.*

22nd July, 1820.

Sergeant-Major R. Gibson, of the 4th Regiment Light Cavalry, was arraigned, &c.

*Sentence.*—To be *reprimanded*, in such a manner as His Excellency the Commander-in-Chief may direct.

Disapproved.

(Signed) HASTINGS.

The Commander-in-Chief disapproves of the above decision. \* \* \* In the first place a reprimand from the head of the army to a non-commissioned officer is not suited to the situation of the latter. The efficacy of such a reproof to a commissioned officer depends on his feeling that as it is rarely resorted to, and thence implies serious misbehaviour in him to whom it is addressed, it will materially affect him in the estimation of the society in which he moves. The application, therefore, of a reprimand to a non-commissioned officer, is not only objectionable from rendering it common, but is idle with regard to an individual whom it will little disparage in his humble circle of acquaintance.

Notwithstanding the publication of these remarks in General Orders, a European general court-martial was holden at Moulmein, 22nd July, 1835, Captain Mair, 62nd Regiment, President, for the trial of a Sepoy, accused of permitting the escape of a prisoner, which found the prisoner guilty of the charge, and sentenced him to be severely reprimanded, in such manner as the officer confirming the proceedings might be pleased to direct. The decision of the Commander-in-Chief in this case was as follows:—

*Disapproved*; reprimand not being a punishment suited to the degree of a private soldier.

(Signed) R. W. O'CALLAGHAN,  
Lieutenant-General and Commander-in-Chief.

*Vituperation and Abuse.*—This was another of the punishments to which soldiers were liable, and which was often very liberally exhibited. “In the course of my service,” says an Old Officer, “I have been shocked to hear the expressions made use of by some officers in command of regiments. What can tolerate or excuse such words as these?—‘I will flog your guts out, you rascal;’ ‘I will cut the flesh off your bloody back;’ and other expressions more ungentlemanlike and inhuman.” A Commanding Officer of a corps concluded an address to the men in the following emphatic words:—“*If you*,” said he, “*furnish backs, I will provide cats for them.*”

“The soldier,” says Major Macnamara, “was treated as an unruly child in a workhouse,—fed, clothed, and flogged, but never instructed, never reasoned with. ‘You have no business to *think*, Sir,’ was a sentence often addressed to him, ‘but to do as you are *bid*;’ and the sentence was generally concluded by a gen-

temanlike, charitable, and encouraging ‘and be damned to you.’ Swearing and abuse were, indeed, the only accomplishments within the soldier’s reach. His officers swore, his non-commissioned officers swore, and his comrades never once addressed one another without swearing.” Swearing was at one time so common that it came to be considered an indispensable specific for preserving discipline and carrying on public duty. It was supposed by some that it added dignity and weight to the orders which were given, —that it was a manly qualification; and it has often been asserted that a British soldier never thought his officer in *earnest* with him unless he swore at him. When the habit of swearing prevailed in all ranks in the army, an officer could with very little consistency check his men for it; but this absurdity sometimes happened. “I have heard an old officer,” says an author whom I have frequently quoted, “I mean in point of age, correcting a man of his company who had sworn in his hearing, and with the most horrid curses and imprecations on himself, assured him that he would put the Articles of War in execution against him the first time he swore again.” By the Articles of War, a soldier “is to forfeit twelve-pence” upon being convicted of profane swearing.

No action on the part of a soldier can justify the abuse of a superior, or a threat urged in terms of abuse. “Abuse,” says an Old Officer, “deadens the heart; kindness wins the affections. Threatenings infuse into the obdurate bosom a callous indifference; whilst calm admonition sucks the sting from the most hardened mind. Severity creates hatred,—mercy, love. I have known private and parental admonitions by Commanding Officers wean the most desperate dispositions, on which severity had exercised its greatest power without reforming; each blow of retribution stole from the heart the few remaining sparks of manhood, and the debased individual at last fell like a brute into the grave. *Kindness will ever be found the best antidote to crime,—severity its most active source.*” Prince Henry, the brother of Frederick II., King of Prussia, severely reprobated the harsh treatment of soldiers. He used to say to his officers, “If a soldier performs an evolution ill, you have not practised him sufficiently at it. Exercise him an additional hour or two in the evening, and he will be sufficiently punished. *If you strike him, you punish him on account of your own idleness.*”

The principal punishments inflicted upon soldiers subsequently to the year 1790, by military law, and military usage, were death, and flogging with the cat-o’-nine-tails. The minor punishments

inflicted by a Commanding Officer were—imprisonment in a guard-house or black-hole,—in which case bread and water was the usual diet; extra duties, &c.

Pecuniary fines had long ceased to be awarded as a punishment for military crimes; but when martial law was proclaimed in Ireland, in 1798, this mode of punishment appears to have been temporarily restored. In this year (1798) the following proclamation was issued :—

*To the Inhabitants of Belfast.*

This is to give notice, that if any person is taken up by the patrols after ten o'clock he will be fined 5s. for the benefit of the poor. If the delinquent is not able to pay 5s., he will be brought to a drum-head court-martial, and will receive 100 lashes.

(Signed)            JAMES DENHAM,  
                          Colonel Commandant.

By this notice, Colonel Denham seems to have considered 5s equivalent to 100 lashes, and any man who could not raise 5s. might be flogged as a matter of course.

In practice, flogging was almost the only punishment employed, as at this time confinement had not been much thought of as a mode of chastisement. Hence crimes very different in character and enormity were punished by the same degrading mode of infliction. We learn from Dr. Hamilton, that private Anthony Gregory, of the 10th Foot, was punished with 100 lashes, for suffering the queue of his hair to drop off when on duty, which, perhaps, he had that morning rather carelessly tied on; and I have, as late as 1811, seen an African recruit, who did not know a word of our language, brought to a drum-head court-martial and flogged, in consequence of some of his appointments being less clean than they ought to have been. Unsteadiness in the ranks, caused, perhaps, by a man brushing a fly from his face, and the disgraceful offence of stealing from a comrade, met with a similar chastisement, differing, perhaps, a little in the amount of infliction, but the same in ignominy. By these means the moral judgments of officers were in some measure confounded, as offences which received the same kind of punishment come to be considered as of the same guilt. Use and wont was the rule in regard to this kind of punishment, while the amount or severity of the infliction was entirely optional with a court-martial, which might sentence a man to receive an unlimited number of lashes, or to be slightly censured, as to the members might seem meet. Hence it will appear that the ferocious severity of military punishments depended upon

the practical administration of the military law, not upon any specific enactment of the law itself,—the judges, not the statutes. But it would appear that Government considered enormous inflictions expedient, when it so obstinately resisted every attempt which was made to restrain the powers of courts-martial by fixing a moderate maximum of punishment, so as to meliorate their sanguinary sentences. Instances were daily occurring which shewed that no body of men should be invested with the power of awarding unlimited punishments.

In the *Conversations of Paley*, by the Rev. Mr. Best, a case is recorded which may be here noticed. About the end of the last century, several regiments of boys were raised, for the purpose of being sent to India. One of these regiments was quartered at Lincoln. “The cat-o’-nine-tails, though administered,” says Mr. Best, “as was supposed, with due regard to the tender age of these young soldiers, was not idle. One boy died a day or two after a punishment. The officers, shocked at the event, wished to impute it to some other cause,—the previous state of the boy’s health,—some mismanagement. We met at dinner on the day of the poor lad’s burial. Of course the conversation fell on this topic. Paley said, ‘It is a pity that the officers should endeavour to excuse the matter. All the world must see that if the boy had not been flogged he would not have died. It is an unlucky accident.’ One officer of the regiment was present,—a very young man. He was praised for the unaffected sensibility which he manifested on the occasion,—he was not ashamed to shed tears.”

The subject of corporal punishment was brought prominently forward by Sir Robert Wilson, in a letter which he addressed to the Right Honourable William Pitt, in 1804. The work is entitled *An Enquiry into the Present State of the Military Force of the British Empire, with a View to its Re-organization*. In this enquiry the author asserts, that the principal checks to recruiting are comprised in the system of enlisting for life, and *the frequency of corporal punishments*. “There is no mode of punishment,” says Sir Robert, “so disgraceful as flogging, and none more inconsistent with the military character, which should be esteemed as the essence of honour, and the pride of manhood; but when what should be used but in very extreme cases as the *ultimum supplicium*, producing the moral death of the criminal, becomes the common penalty for offences in which there is no moral turpitude, or but a petty violation of martial law, the evil requires serious attention. How many soldiers, whose prime of life has

been passed in the service, and who have behaved with unexceptionable conduct, have been whipped eventually for an accidental indiscretion ; an absence from tattoo-beating, or even a dirty shirt !

"Intoxication is an odious vice ; and since the Duke of York has been at the head of the army, officers have ceased to pride themselves upon the insensate capability of drinking ; but, nevertheless, flogging is too severe as a general punishment for what has been the practice of officers, and also most decidedly fails in correcting the disposition to drink. Cleanliness is a virtue, and highly essential for the health of the soldier ; but surely there are a thousand ways of enforcing attention to dress, and producing a love of decent appearance, without having recourse to such rigour as corporal punishment. Absence from quarters is a great fault, and must be checked : but is there no allowance to be made for young men, and the temptations which may occur to induce such an occasional neglect of duty ? Would not confinement for an evening or two afterwards be a sufficient mortification ?

"Officers are too familiarized to consider soldiers as mere machines, who are insensible to kind treatment, and on whose minds no reasoning can operate ; but if they would remember that man is an intellectual being, susceptible of reflection, and endowed with faculties, they should at least try the experiment fairly, and endeavour to ascertain whether those vicious habits to which the lower classes are often addicted may not be corrected by lenient measures, and a frequent appeal to their characters as soldiers. I am positive that the *amour propre* of man, except in very bad subjects indeed, is always to be excited, that the *esprit du corps* of regiments may always be formed, and that every soldier may be rendered proud of his profession, interested in the preservation of its honour, and be sensibly affected by its disgrace."

When so much is left to the arbitrary will of officers, in regard to the delinquencies of soldiers, the welfare and happiness, and I may add the efficiency, of a body of troops, must be greatly influenced by the discretion, good sense, humane disposition, and experience of a Commanding Officer. Every one admits that the poor ought to be educated ; but it is of more importance that the rich—in other words, those in high station—should be well instructed ; for if their principles were right, and their practice wisely conducted, the institutions and customs of society would eventually be somewhat purified and improved. The doctrine of expediency, and the plea of custom, regulate weak

minds ; and however well-intentioned routine Commanding Officers may be, they are liable greatly to abuse the power with which they are invested.

It has been asked by an apologist for corporal punishment, As there is no encouragement, or next to no encouragement, for good conduct in the army, how can you abolish (flogging) the punishment necessary for repressing bad conduct ? But it may be asked in return, Is flogging calculated to render an “ill paid and ill rewarded” soldier well conducted and obedient ? Will punishment induce him to like the army, and to prefer it to the condition of civil life ? And does not sound policy, as well as honesty and humanity, forbid us to punish delinquents until we have tried the requisite practical means to prevent the commission of crimes ? and, I may add, unless that punishment promises to be beneficial ?

Experience seems to prove, that crime is more effectually prevented in civil life by the diffusion of information, good moral training, kind treatment, and an easier mode of gaining a livelihood, than by the most severe punishments. May we not therefore presume, that offences may be prevented in the army much more effectually, by raising the character of soldiers, and by meliorating their condition—by making them, in fact, prefer the public service to the situation of labourers, or artisans in civil life —than by either corporal or mental punishments ?

What may be considered remarkable in connexion with this subject is, that many individuals who display great aversion to the infliction of severe punishments in civil life, shew no such forbearance in regard to the army. This apparent inconsistency was very obvious in the case of Frederick II. of Prussia, who, although he evinced much reluctance to putting to death even the greatest criminals, shewed no disposition to meliorate the laws which regulated the military. The Prussian discipline was of the strictest and harshest kind. “The barbarity of these military punishments,” says Lord Dover, his biographer, “at which humanity shudders, would appear at first sight to be quite incompatible with the compassionate intentions usually shown by Frederick to criminals.” Irresponsible power and vicious training may, through long practice, render individuals, naturally humane, unreasonably severe. Men make systems, and systems make men. Men may be trained to inhumanity, as well as to benevolence. Young officers who see only harsh measures adopted for the reformation of soldiers, are very apt to practise severe treatment when they attain rank and influence. The principle which

seemed to pervade Frederick's policy was this, that the more severely the army is governed, the safer it is to treat the rest of the community with lenity.

The facts stated by Sir Robert Wilson cannot be denied, nor the conclusions at which he arrives, refuted; indeed, they carry conviction along with them. It will also be recollected, that his suggestions are the result of experience and observation, and an anxious interest in the efficiency and honour of the army. "Corporal punishments," says our author, "ought to be so rare in the British service, that whenever inflicted, such an event should be considered as remarkable, and then the impression would be advantageous; but the eye is now so familiarized to such spectacles, that the sight is no longer sickening or disgusting; and consequently, as indifference gains ground, hope of improvement by example must recede."

The ingenuity of officers should be exercised to devise modes of mitigating the punishment, and yet maintaining discipline. If the heart be well disposed, a thousand different methods of treating offences will suggest themselves; but to prescribe positive penalties for breaches of duty is impossible, since no two cases are exactly similar. Unfortunately, many officers will not give themselves the trouble to consider how they can be merciful. Corporal punishments never yet reformed a corps, but they have totally ruined many a man, who would have proved, under milder treatment, a meritorious soldier. They break the spirit without amending the disposition. Whilst the lash strips the back, despair writhes round the heart; and the miserable culprit, viewing himself as fallen below the rank of his fellow species, can no longer attempt the recovery of his station in society. Can the brave man, and he endowed with any generosity of feeling, forget the mortifying, vile condition in which he was exposed? Does not therefore the cat-o'-nine-tails defeat the object of punishment? It is to be remembered, that flogging is the common treatment—not an awful extraordinary example. And is not a mode of punishment too severe, which for ever degrades and renders abject? Instead of upholding character as entitled to the respect of the community, this system renders a soldier despicable in his own eyes, and an object of opprobrium in the state, or of mortifying commiseration.

If we could impress upon the mind of the delinquent an idea that the efforts we are making are really intended for his welfare, our object would be in a great measure accomplished. There is no human being so stupid or so wicked, as not to concur

to the utmost of his power in measures evidently calculated to relieve him from suffering. We should never forget that corporal inflictions are not applied to inert matter; but on a sentient and intelligent being, capable not merely of bodily suffering, but endowed with feelings of remorse, sorrow, penitence, and shame, which vary in every individual, and are implanted by nature in the human bosom. Even the unfortunate individuals who are confined in lunatic asylums, are found to be subordinate and to act rationally, in proportion as they are treated like reasonable beings.

All the known punishments which involve the infliction of pain, when legally imposed imply degradation and disgrace; and I firmly believe that sentiment is experienced by soldiers to a greater degree than by the general population. Degradation is unfavourable to improvement: it is apt to excite a resentful feeling—a sentiment highly destructive of good discipline, or ultimate reformation. “Where there is most whipping,” says Dr. Hamilton, (*Duties of a Regimental Surgeon considered,*) “there will be found most disobedience, for few men can imitate the spaniel, and fawn the more the oftener they are beaten; human nature revolts at this, and reason cries out against it. Flogging only serves to harden.” As an evidence of the truth of this conclusion, I may state the following fact:—A soldier belonging to ——Regiment, who had been frequently punished, was brought to the halberts; and when he was under the infliction of the cat, he turned round to the officer, and exclaimed, with a laugh,—“Well, I get my three thousand a year, which is more than many of you can say!” The heart and the back, says my authority, are gradually but simultaneously hardened, till after a time the infliction of flogging is considered of little importance.

“I have known,” says an Old Soldier, (*Sketches and Tales of a Soldier’s Life,*) “regiments entirely demoralized by a system of flogging. In a particular corps that came under my observation, and which for some time bore the nickname of the *bloody regiment*, the consequence of this system was, that all sense of shame was lost, and every blackguard made it a boast of manhood that he had received thousands of lashes on his back, and on the calves of his legs, nay, on the *fleshy part of his thighs*; he who could name the greatest number considered himself the most honourable soldier.”

On the other hand, I have known regiments in which a drummer had scarcely ever been subjected to the hated duty of being an executioner; the good men were so happily encouraged, that vice

was put out of countenance, and found no refuge in opinion, every man became a censor and a juror, answerable for the conduct of his comrades, and active in supporting the honour of his *corps*. A wise Commanding Officer can find other punishments than the lash, when rewards, and the hope of preferment, fail to preserve discipline. He knows, that a base punishment, if often resorted to, will be little dreaded ; his principle of commanding is, to keep the minds and bodies of his men in a constant state of activity, agitated by hope, firm in their reliance on his justice and mercy, and certain of reward for meritorious conduct, as well as of deserved punishment for dereliction of duty.

In civil life, shame, and the fear of blame, are restraining motives capable of preventing a multitude of crimes ; consequently the civil laws have a softer way of correcting than military laws, whose principle has hitherto been chiefly that of terror, not that moral discipline which inspires a soldier with the sentiments of honour and virtue. "Where shame is not a consequence of punishment," says Montesquieu, "this must be owing to tyranny, which has inflicted the same penalties on villains and honest men ;" and he adds, "Where men are deterred only by cruel punishments, we may be sure that this must in a great measure arise from the violence of the Government, which has used severe penalties for slight transgressions."

The punishment of flogging has been employed and defended, apparently as if it were calculated to expiate or atone for crimes. Flagellation was no doubt approved by public opinion, so long as it was in accordance with the prevalent religious ideas. The Church pointed out corporal inflictions as a means of salvation ; and the repentant sinner believed, that by penance and bodily suffering he should recover peace of conscience. Corporal inflictions were not then disgraceful, being considered to possess an expiatory character. But this belief in the efficacy of flagellation and severe fasts has long disappeared. Public opinion in our day brands the punished criminal with an almost indelible disgrace ; and perhaps the degrading character of corporal punishment is more sensibly felt in the army than in civil life, owing to the circumstance that it is exclusively inflicted upon private soldiers. Even those who defend the suitableness of flogging as a punishment, practically admit the degrading character of the infliction, by refusing to take a whipped offender into the public service : he is also liable to be refused employment in civil life. "Is there not," Prince Oscar enquires, "thus formed a class of

*Pariahs*, or moral outlaws, who are obliged to consider themselves as being in a continued state of warfare with society?"

To what extent flogging in the army was practised early in the present century, I have no means of ascertaining; for, so far as I know, there is no return published of the number of corporal punishments inflicted in the British army prior to 1825. Numerous isolated facts combine, however, to render it probable that it was carried to a very great extent. At the latter end of October 1806, the 28th Regiment embarked at the Cove of Cork, to join the expedition then proceeding to Germany. The men were ten weeks on board transports, when they reached the city of Bremen, where the troops were quartered on the inhabitants from two to ten in each house. "During our stay in Bremen," says Sergeant Teesdale, (*Letter addressed to the People of England*, 1835,) "which was about six weeks, we had a parade to attend morning and afternoon. The officers commanding companies received orders from Major B—— to inspect their men closely, and turn out such as they found dirty to the front; a square was then formed for punishment, and the men who had been found fault with, were marched in, tried by a drum-head court-martial, and flogged, to a man, without reference to character. There was no remission of sentence—no, not a lash. I have known from *ten to fifteen and twenty-five* fellows flogged at a parade under this frivolous pretext. This practice was continued at every parade, until it was put a stop to," probably by General Sir Edward Paget.

"At one of the above flogging parades, when we had been nearly two hours witnessing the horrible scene of bloodshed, and when the hands and feet of every soldier in the regiment were benumbed from cold, and from remaining for such a length of time in one position; I say, at one of these parades, a brave old soldier, whose character was unimpeachable, happened to cough in the rank. He turned his head a little on one side to discharge the phlegm, and was instantly ordered into the centre of the square, stripped of his accoutrements, and placed in front of the halberts. He went through the mock form of trial, by a drum-head court-martial. Major B—— swore he was unsteady in the ranks; and on the *ipse dixit* of that tyrant, he was sentenced to receive fifty lashes. After the brave veteran was tied up he implored hard for mercy, adding, that he had been twenty years in the service, and was never till then brought to the halberts. The pale, worn, and dejected appearance of this man, from age and length of service, was in itself sufficient to excite compassion

and sympathy, even had he been guilty of a crime ; his appeal was useless, he had every lash of his sentence, weeping and crying bitterly during the infliction ; and although he only received fifty lashes, he never looked up afterwards. It had wounded his best feelings ; he was constantly in hospital, and but a little time elapsed before he was discharged." Commissioned officers are comparatively ignorant of the thoughts and feelings of soldiers—with the hearts of those whom fortune alone, in many instances, makes their inferiors. The following is the only instance which has come to my knowledge of a number of soldiers forcibly attempting to save some of their comrades from this degrading punishment. It is the more worthy of being recorded, as affording a noble example of four of the offenders voluntarily submitting themselves to punishment as an atonement for the rest.

In the year 1795, a serious disturbance broke out in Glasgow among the Breadalbane Fencibles. Several men having been confined, and threatened with corporal punishment, considerable discontent and irritation were excited among their comrades, which increased to such violence, that when some men were confined in the guard-house, a great proportion of the regiment rushed out, and forcibly released the prisoners. This violation of military discipline was not to be passed over, and accordingly measures were taken to secure the ringleaders, and bring them to punishment. But so many were equally concerned, that it was difficult to fix on the proper subjects for punishment. The soldiers being made sensible of the nature of their misconduct, and the consequent punishment, *four men voluntarily offered themselves to stand trial*, and suffer the sentence of the law, as an atonement for the whole. They were accordingly marched to Edinburgh Castle, tried, and condemned to be shot. Three of them were, however, afterwards reprieved, and the fourth was shot, on Musselburgh sands.

On the March to Edinburgh a circumstance occurred, the more worthy of notice as it shews a strong principle of honour, and fidelity to his word, and to his officer, in a common Highland soldier ; and while it reminds the reader so strongly of that fine incident in the classical story of Damon and Pythias, as almost to appear like an inferior imitation of that high act of heroic honour and self-devotion, it exemplifies this truth, that a fine sense of what is honourable and sublime in human conduct is not confined to any particular class of men, but is as inherent to the baseborn peasant as to the nobly born and the nobly bred. One of the men stated to the officer commanding the party, that he knew what his fate would be, but that he had left business of the utmost importance to a friend, in Glasgow, which he wished to transact before his death ; that as to himself, he was fully prepared to meet his fate ; but with regard to his friend, he could not die in peace unless the business was settled ; and that if the officer would suffer him to return to Glasgow, a few hours there would be sufficient ; that he would join him before he reached Edinburgh, and then march as a prisoner with the party : the brave Highlander added—" You have

known me since I was a child ; you know my country and kindred ; and you may believe I shall never bring you to any blame by a breach of the promise I now make, to be with you in full time to be delivered up to the castle." This was a startling proposal to the officer, who was a judicious, humane man, and knew perfectly his risk and responsibility in yielding to such an extraordinary application. However, his confidence was such, that he complied with the request of the prisoner, who returned to Glasgow at night, settled his business, and left the town before daylight, to redeem his pledge. He took a long circuit to avoid being seen, and being apprehended as a deserter, and sent back to Glasgow, as probably his account of his officer's indulgence would not have been credited. In consequence of this caution, and the lengthened march through woods, and over hills, by an unfrequented route, there was no appearance of him at the hour appointed. The perplexity of the officer when he reached the neighbourhood of Edinburgh may be easily imagined. He moved forward slowly, but no soldier appeared ; and unable to delay any longer, he marched up to the castle, when, as he was delivering over the prisoners, but before any report was given in, Macmartin, the absent soldier, rushed in among his fellow-prisoners, pale with anxiety and fatigue, and breathless with apprehension of the consequences in which his delay might have involved his benefactor. In whatever light the conduct of Major Colin Campbell, the officer, may be considered by military men, his confidence in human nature must endear him to the hearts of the humane ; and it cannot but be wished that the Highlandman's magnanimous self-devotion had been taken as an atonement for his own misconduct and that of his brother prisoners. It was not from any additional guilt that the man who suffered was shot : it was determined that only one should suffer, and the four were ordered to draw lots, when the fatal chance fell upon William Sutherland, who was executed accordingly.

Early in 1806 the Honourable Brigadier-General Stewart, 95th Regiment, published a pamphlet entitled *Outlines of a Plan for the General Reform of the British Land Forces*, which contains the following passage upon corporal punishment. "No circumstance can mark a want of just discrimination more than the very general recurrence in any stage of society to that description of punishment which, among the same class of men, and with the alteration of the profession alone, bears a *stamp of infamy* in the estimation of every man. The frequent infliction of corporal punishment in our armies tends strongly to debase the minds, and destroy the high spirit of the soldiery ; it renders the system of increasing rigour necessary ; it deprives discipline of the influence of honour, and destroys the subordination of the heart, which can alone add voluntary zeal to the cold obligation of duty. Soldiers of naturally correct minds having been once punished *corporally*, generally become negligent, and unworthy of any confidence. Discipline requires the intervention of strong acts to maintain it, and

to impress it on vulgar minds. Punishment may be formidable, but must not be familiar ; generosity, or solemn severity, must at times be equally resorted to ; pardon, or death, have been resorted to with equal success, but the perpetual recurrence to the infliction of infamy on a soldier by the punishment of flogging is one of the most mistaken modes for enforcing discipline which can be conceived."

These observations are obviously calculated to produce conviction in men who have not been corrupted by frequent examples of corporal infliction,—who have not, in fact, been *brought up* to flogging from their infancy, and think it a mere matter of course. The "stamp of infamy" which is indelibly inflicted by flogging, is a permanent disgrace ; it tends to cut off an offender from restoration to character ; he can scarcely hope that his conduct and exertions will be equally rewarded with the meritorious efforts of others. But does it ever excite a culprit to reform his conduct, to become sober, honest, obedient, and zealous ? When it fails to operate beneficially upon a delinquent, and upon the minds of the men in general, I fear

It hardens a' within,  
And petrifies the feeling.

The hardening effect of corporal punishment is strikingly illustrated by the result of a case which is recorded by the late Dr. Gordon Smith. "Private P——, 12th Dragoons," says Dr. Smith, "was sentenced to receive 1000 lashes, which amount of punishment he bore without a complaint ; as soon as he was taken down he turned round and addressed the officers as follows :— ' Gentlemen, you have seen me take my punishment like a soldier, I hope you will give me my discharge ; and if you don't, I will vex you all.' He was as good as his word, inasmuch as, for the space of about two years afterwards, he lived chiefly in the guard-house, being seldom, if ever, out of a drunken scrape." He was at length discharged, and subsequently obtained employment as a *valet*.

The consequences of the "frequent infliction" of corporal punishment are graphically described by General Stewart. Flogging was for a long time the principal, indeed almost the only moral specific employed in the army ; and as penal as well as medical specifics are liable to be much abused, it is, I believe, universally admitted that corporal infliction was practised to a most pernicious extent, thereby producing all the evils enumerated by the General. This terrible excess of corporal punishment is not to be attributed so much to the natural disposition of the

officers as to the long and generally established usage of resorting to no other means of reformation, and no other mode of preventing delinquencies, but flogging, and to the practice of vindicating the law by awarding a certain amount of punishment for a certain portion of crime, with little, if any, regard to character. Young officers saw no other mode adopted, and custom reconciled them to the disgusting character of the chastisement, a belief being thereby inspired that there was no other equally effectual means of preserving discipline. "The judgment of a court-martial," says Sir Robert Wilson, "does *not* interpose a sufficient check upon the severity of some Commanding Officers. Young men are allowed to be members who have never considered the moral effects of punishment,—they are familiarized to severity by the recorded instances of their predecessors. They are instructed to consider particular offences as forcing *de se* a precise award, without the consideration of a man's previous character,—they are accustomed to trust to the mercy of the Commanding Officer. \* \* \* \* They too frequently assemble without a thought upon the important trust committed to them,—they hear with levity, and decide without reflection."

Courts-martial frequently consider *crime* chiefly with relation to *punishment*, and their principal difficulty is to apportion the latter to the former, or, "according to the nature and degree of the offence." Now the immediate effect of punishment is to inflict a degree of pain, an evil which is only allowable as a medium of amendment. Instead, therefore, of connecting the ideas of *crime* and *punishment*, we ought rather to place together the ideas of *crime* and *reformation*, considering punishment as only one of the modes for effecting such reformation. The first impulse of the mind upon the infliction of pain as a punishment is not contrition but resentment, a hardening of the heart, a disposition unfavourable to reformation. Hence it has been found, by the experience of all ages, that as punishments have increased in severity crimes have multiplied.—(Roscoe, *On Penal Jurisprudence*.) Nowhere has vice prevailed to such a fearful degree as when men were suffering under the severe and degrading penalties of the law. The criminals at the penal establishment at Port Arthur are sure to return from the institution more hardened in guilt than when they were sent to it. "Let a man," says a convict under penal discipline, "be what he will when he comes here, he is soon as bad as the rest,—a man's heart is taken from him, and there is given to him the heart of a beast." Hopeless despair sometimes drives

these degraded wretches to commit murder in sight of their companions, with no other intention than to be tried, convicted, and executed.

A popular author (Mr. Southey, *Esprielli's Letters*, 1807) thus describes the principal military punishments of this country:—“The martial laws of England are the most barbarous which at this day exist in Europe. The offender is sometimes sentenced to receive a thousand lashes:—a surgeon stands by to feel his pulse during the execution, and determine how long the flogging can be continued without killing him. When human nature can stand no more he is remanded to prison (hospital),—his wound, from the shoulders to the loins it leaves him one wound, is dressed, and as soon as it is sufficiently healed to be laid open in the same manner, he is brought out to undergo the remainder of his sentence. And this is repeatedly and openly practised in a country where they read in their churches and in their houses *that Bible*, in their own language, which saith, ‘Forty stripes may the judge inflict upon the offender, and not exceed.’”

By this time popular opinion had in some measure become adverse to severe and degrading punishments, and in an especial manner to the punishment of flogging in the army. A soldier who was punished in this manner, received the popular sympathy of a martyr, rather than the degradation of a culprit.

The progress of civilization had rendered the inhuman inflictions which were deemed necessary in barbarous times, more or less objectionable and disgusting. But it was not only the degrading character of corporal punishment which excited popular disapproval, but the fearful abuses to which it was liable. “The frequent—the arbitrary and indiscriminate way in which some Commanding Officers resorted to corporal infliction, was highly reprehensible, distressing, and frequently *perfectly useless*, and tended to harden and destroy, rather than amend the moral feelings of the man.”

—(*Evidence on Military Punishments*, Quest. 573.)

Colonel Dickson, when he commanded the 42nd Regiment, was one day superintending the punishment of an old soldier, who had been sentenced to receive corporal punishment in consequence of his being, as he himself said, a “*wee fou*.” The man complained much under the infliction, and begged frequently to be taken down; but the Colonel shewed no disposition to remit any of the sentence. He made another appeal to the Colonel’s humanity, and exclaimed, “Oh, Colonel, take me down! for *ye ken I'm just a puir auld drunken bodie like yoursel*.” The justice of the remark was uni-

versally admitted, and military discipline could hardly restrain the risible faculties of the officers and men. The soldier was forthwith taken down. His punishment evidently did much more harm than any benefit which could have been expected from it. Instruction, admonition, and good example, cannot fail to have a beneficial influence upon the conduct of soldiers; for notwithstanding the injunction of Solomon, I am much disposed to recommend that Commanding Officers should be sparing of the rod.

The above case reminds me of a measure, which in ancient times was adopted to recover the virtue of the relics of saints, when it had become inert, namely, to flog them with rods, which is said to have been effectual. Such a practice is, however, not advisable in the case of old soldiers, whose virtues are very seldom restored by corporal infliction. It seems to have been but rarely contemplated under the flogging system, that the mind of a soldier could be stung by insult or shame, dishonour or injustice.

For a period of two or three hundred years, little was done for the melioration of the criminal law of England. Scarcely any change was effected either in the form or the substance of this code, except when new taxes, or new kinds of crime, caused fresh felonies to be added to the list of existing penal enactments. At last, Sir Samuel Romilly, in 1808, introduced his Bills for abolishing capital punishment in certain sorts of larceny; and the same distinguished lawyer and humane man subsequently made several motions in the House of Commons, which were directly or ultimately intended to diminish the frequency and severity of the punishments to which soldiers were liable. Ever since that period, both the criminal and military law have been progressively undergoing a remarkable degree of amelioration.

Mr. Windham's Army Bill passed in 1806, which substituted service during a limited term of years, for that indefinite and hopeless bondage to which soldiers had hitherto been doomed. This Bill had long been called for by humane and enlightened men in civil life, but it met with little support from military officers. It was supposed, when this Bill passed, that the crimp and the hardly less nefarious practices of the recruiting Sergeant might be dispensed with, and that a soldier's life, into which, under the old system, the criminal was forced, the innocent inveigled, and only the dissolute and desperate voluntarily entered, would become the deliberate and not imprudent choice of young mechanics and peasants. As this Bill removed one reproach from the army, it was regarded as a pledge that corporal punishment would be

exchanged for some more humane means of amendment, and that a method would be devised of assimilating military law to the principles of freedom and justice. These cheering hopes and prospects were completely frustrated and subverted, by the introduction of a clause in the Military Bill which was proposed in 1808 by Lord Castlereagh, to permit recruits to enlist for life. The sophistry and inconsistency of Lord Castlereagh's reasoning in defence of the introduction of the clause were too gross and glaring to need refutation. Upon this occasion, Lord Melville expressed himself in the following terms:—"It had been said that the system of limited service would introduce a better description of men into the army—that it would induce respectable farmers to prepare one of their sons to be a soldier. In short, that it would make the military service a trade! There never was, and never would be such a trade in this sense of it. What was meant by a better sort of men? Was it that they would be taller or shorter—broader or thinner? This might be intelligible, but it was not the fact. The men that hitherto formed the British armies, men of stout hearts and habits, men of spirit and courage, lovers of bold enterprise,—these were the materials of which an army must be composed. Give him such men, though not of the better description. *The worst men were the best soldiers.* Keep the better sort at home." This singular language, which indicated such contempt of the moral dignity of man, and such ignorance of his nature, provoked an indignant reply from the Duke of Gloucester. "Where did the noble lord learn," said the Duke, "that the worst men made the best soldiers?"

"Mr. Windham's main object," says a contemporary author, "is to provide a permanent and efficient military force, to meet an enemy of equal or even superior number, not a force made up of fools entrapped, of men held in bondage, of half-starved paupers, of vagabonds and of thieves, whose punishment has been commuted for the honour of serving the King."

After the introduction of the clause in question into the Mutiny Act, and the consequent offer of a higher bounty to recruits who enlisted for life, the liberal provisions of Mr. Windham's measure were rendered abortive, and enlistment for life again became the rule of the army.

When the Bill for establishing the local Militia was introduced, it met with great opposition from Sir Francis Burdett, partly because the men were to be placed under military law. The Marquis of Buckingham viewed it in the same light, and when it was

brought into the Upper House he proposed, but without success, as an amendment to the clause which subjected the local Militia to the Mutiny Act, "that no sentence of a court-martial for inflicting corporal punishment should be carried into effect until submitted to His Majesty or to the Commander-in-Chief."

During the month of June 1808, Sir Francis Burdett renewed the subject of martial law, by moving "That there be laid before the House early in the next session of Parliament, regimental returns of all corporal punishments sentenced and inflicted during the last ten years in every regiment of regulars, Militia, garrisons, and Artillery, specifying the causes, the sentences, and number of lashes given at one or more periods." This motion gave rise to a long and interesting discussion, but only four members voted for it. Public opinion had, however, by this time become, in some measure, alive to the abuses of corporal punishment in the army ; and when the public mind becomes intelligent and benevolent, the reign of justice and humanity will certainly follow. "Public opinion," says Lord Lauderdale, "cannot be held too sacred by public men. The voice of enlightened public opinion is irresistible. Nothing but time is wanting to render it triumphant and favourable. Circumstances not unfrequently give it an elastic kind of impulse which issues in unexpected success." These observations of his Lordship have been amply verified in regard to the practice of flogging in the army.

Flogging was, I believe, carried to a greater extent at this time than at any future period. "When at Jersey, in the year 1808, it was my painful duty," says Lieutenant Shipp, "to witness the infliction of corporal punishment almost every week. One of the battalions of the 60th, which was chiefly composed of foreigners, including a number of Frenchmen, was then stationed at Jersey. Many of the men deserted, and most of them were taken in the attempt. Being tried for desertion, they were sentenced to receive 1000 lashes each. According to my authority, this punishment was rigidly inflicted, with the additional torture which must have resulted from the number of *five* being slowly counted between each lash ; consequently the space of three hours and twenty minutes was occupied in inflicting the total punishment, as though 1000 lashes were not of themselves a sufficiently awful sentence without so cruel and unnecessary a prolongation of misery. Many of these poor creatures fainted several times, but having been restored to their senses by medicinal application, the moment they could move their heads the castigation

was recommenced in all its rigour. Numbers of them were taken down and carried from the square in a state of utter insensibility. The spectacle, altogether, instead of operating as an example to others, created disgust and abhorrence in the breast of every soldier present who was worthy of the name of man." When we reflect upon the administration of military law and military usages at the time in question, it may seem extraordinary that much reliance should be placed upon the efficacy of severe laws in the case of desertion; for if severity could have prevented desertion, no such delinquency would be known in the army. Unless the welfare of a soldier be, in a great measure, identified with the interests of the service, penalties will never prevent desertion.

In the month of June 1809, an alleged mutiny broke out amongst the *local militia* at Ely, which was suppressed by the arrival of four squadrons of the German Legion cavalry, from Bury, under the command of General Auckland. Five of the ringleaders were tried by a court-martial, and sentenced to receive 500 lashes each, part of which punishment they received, and a part was remitted. A stoppage for their knapsacks was the ground of complaint that excited this mutinous spirit, which occasioned the men to surround their officers, and demand what they deemed their arrears. Mr. Cobbett, in his *Political Register*, of the 1st July, animadverted strongly on the impolicy and injustice of flogging the alleged mutineers at Ely, which animadversions eventually excited the attention of Government; for on the 15th June, 1810, nearly twelve months after his remarks had been published, he was tried for a seditious libel, and found guilty. A few days after, on the 9th July, he was sentenced to be imprisoned in Newgate for two years, to pay a fine of 1000*l.* to the King, and at the expiration of the two years to give bail, himself to the amount of 3000*l.*, with two sureties to the amount of 1000*l.* each, for his keeping the peace for seven years.

On his defence Mr. Cobbett stated, "that the disturbance at Ely was not to be called a mutiny—that it was a mere squabble between the men and the officers for a trifle of money—that the men were persons who had just thrown off their smock-frocks to put on the garb of a soldier, and still continued so much labourers as to be ignorant of their duty as soldiers, and had become so much soldiers as to have lost the inclination to labour."

On the 9th July, 1812, the day on which his imprisonment ceased, he was invited to a dinner at the Crown and Anchor; at

which dinner 600 persons were present, and Sir Francis Burdett was in the chair.

Messrs. Hunt, the proprietors of a weekly newspaper, called the *Examiner*, were tried at Westminster for a seditious libel, 22nd February, 1811, in having published some remarks in regard to the punishment of flogging, extracted from the *Stamford News*, a paper edited by Mr. Drakard. They were acquitted.

At the assizes at Lincoln, on the 13th March, 1811, Mr. Drakard, of the *Stamford News*, was tried for a seditious libel, which he had published in his paper, in regard to the flogging of soldiers. He was found guilty, and adjudged to pay a fine of 200*l.* to the King, and be imprisoned in His Majesty's jail at Lincoln for the space of eighteen months, and find security for his good behaviour for three years, himself in 400*l.* and two sureties in 200*l.* each. Lord Brougham was counsel for the defendant in this case, as well as in the case of Messrs. Hunt, and made ample use of the facts which were then known in regard to the inflictions on soldiers.

When the Mutiny Act was brought before Parliament, in 1811, a new clause was introduced, which *empowered* courts-martial to imprison, instead of inflicting the penalty of flogging. It may be mentioned here, a court-martial had always the power of sentencing men to be imprisoned, or, indeed, to any other mode of punishment, but confinement was not the "*established usage*," the "*old system*," commonly employed for punishing military delinquents. We are informed by Major James, in the second edition of his *Dictionary* (1805), that solitary confinement had then been tried by some Commanding Officers. This punishment became gradually more frequently adopted in the army.

"The first instances I find in our books," says Sir John Woodford, Grenadier Guards, "of commutation of corporal punishment, are in 1807, when part of the regiment was in Sicily. A close kind of military confinement, when the soldier was off duty, was substituted, combined with punishment-drill. Subsequently solitary confinement was adopted as a commutation of sentence, instead of corporal punishment, and then as the common sentence of courts-martial, in Cadiz, in 1811 and 1812. The first instance of such a sentence in the 1st Regiment of Guards at home occurred at Knightsbridge barracks, on the 28th December, 1814; consequently it would appear that corporal punishment first fell into partial disuse on foreign stations."—(*Evidence on Military Punishments*, Quest. 3846.) This inference of Sir John

Woodford is strikingly confirmed by the following extract from a General Order, which was issued by Sir George Nugent, dated 11th August, 1813, while Commander-in-Chief of the troops in the Bengal Presidency. "The Commander-in-Chief cannot dismiss this subject without expressing his earnest expectations that Commanding Officers of regiments will feel the expediency and efficacy of meeting offences, otherwise than those of a serious nature, by measures less hurtful to the soldier than *corporal punishment*, a frequent or inconsiderate recurrence to which has ever been found greatly to weaken its effect. *Solitary confinement* has had the happiest result when the infliction of *corporal punishment* has failed to produce amendment."

On the third reading of the Mutiny Act (13th March, 1812), Sir Francis Burdett proposed a clause forbidding the cruel and degrading practice of flogging. A division took place, when six voted for the motion, and seventy-nine against it.

On the 15th April, 1812, a motion was made in the House of Commons by the Honourable H. G. Bennet, for a return of the number of corporal punishments inflicted in the regular army, militia, and local militia, for the last seven years, distinguishing the number of lashes in each case, and the crimes for which they were inflicted. Ayes, 17; Noes, 49. Majority against the motion, 32.

During the discussion upon these motions it was generally admitted that the practice of flogging soldiers is disagreeable and disgusting to all who are connected with the army, and that the continuance of such a punishment is an evil which nothing but extreme necessity can justify. The only question, therefore, on which the parties were at issue was simply this,—whether, from the known habits of soldiers, it would be possible to preserve discipline without a punishment of this character and severity; and whether any other punishment could be devised of equal efficacy and less repugnant to the feelings of humanity. It was stated in the course of the debate, that *the punishment of flogging is stamped with peculiar infamy by the civil law of the land, which places those who have suffered it on a footing with persons who have been convicted of the most disgraceful crimes, and considers them as so infamous that they are unfit for the discharge of the most important functions of citizens*; that even if it were impossible to dispense altogether with the punishment, its infliction ought to be regulated, and the offences on which it may be visited ought to be pointed out with precision; that the best regiments in the

service are those in which flogging has been discontinued ; that much might be done towards rendering it unnecessary, by the care of officers to check offences on their first appearance, and, above all, that the British soldier ought to be encouraged by high rewards, rather than intimidated by cruel punishments ; that it is singularly barbarous to punish a man more than once for the same offence, which is frequently done. The Members who spoke on the other side of the question alleged, that the statements made in regard to punishments actually inflicted had been grossly exaggerated ; but they absurdly enough resisted every proposal which was made to investigate the subject, so as to ascertain the exact extent of corporal punishment in the army.

It has been well observed, that whosoever proposes an alteration of existing usages, will meet from some men with a sort of instinctive opposition, which is influenced by no process of reasoning, by no considerations of propriety or sound policy, which defends the existing system because it exists, and which would have equally defended its opposite, if that had been the oldest.

On this occasion it was observed, that "If the floggings were rare—if they were seldom inflicted—if they were inflicted only in a wise and moderate way—if the soldiers do know the necessity of them—if they do approve of them ; if all this was so, and is so, why not produce the return moved for?" The editor of the *Courier* warmly defended the measures of Government, and asserted that flogging in our army is very rare,—that it is a punishment very seldom inflicted. "Punishments in our army," says he, "are now not half so frequent or severe as they were formerly." After this allegation, I am disposed to exclaim, How frequent must corporal punishments have been at one time! Major Macnamara states, that "it is scarcely an exaggeration to say, that during the war, at least three-fourths of the soldiers of almost every regiment in the service had felt its sting."

The mean number of lashes inflicted monthly in a regiment then serving in India, was for some time 17,000 ; and I have no reason to think the practice of flogging in this corps differed materially from other regiments on the same service, and liable to the same temptations ;—to disobey orders for example, to sell or to purchase spirit rations.

"One would suppose," said Mr. Bennet, in the House of Commons, "that Sir Francis Burdett had been proposing to do away with some great known blessing—something containing within itself the means of affording health, or plenty, or security.

Who would ever imagine that the abolishing of the power to flog soldiers was big with danger to England, and that it ought to be regarded as an act of political suicide or madness?"

Strange to say, it is probable that the melioration of the punishment of soldiers was materially promoted by the West India slave owners. In defending the cruelties inflicted on the negroes, and the inhuman treatment they endured, the slave proprietors frequently referred to the punishments in the army. One author, "A native of Jamaica," who published a pamphlet on the subject, says,—"In Europe, among free men, and by a court of freemen, a seaman and a soldier are sometimes sentenced to receive 100 to 1000 lashes,—*men who have fought their battles, and protected their liberty*. A master in the West Indies cannot, without answering to the laws for it, nor can a magistrate, by the settled laws of the country, give, or sentence a slave to receive, more at one infliction than forty lashes. Would not an idiot perceive on which side the *humanity lies?*" But by the time this author had published, popular opinion had become alive to the subject; for, as was remarked by the reviewer of the above work (in 1812), "Who now defends military flogging? Does any one argue in its favour? Is there any one of feelings so hardened as not to be horror-struck at the bare description of this barbarous practice? Is there any one of such confined intellect as not to perceive its gross unfitness to answer the ends of punishment? The public mind is made up on the question—there is no difference of opinion—the abuse is condemned—it cannot survive its sentence many months."

Courts-martial are liable sometimes to make a severe use of the discretionary power with which they are invested, as the following example will shew:—"The Commanding Officer of the 9th Regiment, who commanded chiefly by fear, after the defeat of the enemy at Roliça, established a permanent court-martial in the regiment—a kind of sitting provost commission. These individuals were exempt from the other duties of the corps; and as a specimen of the working of the system, and how completely brutalized, and what tools mankind may become, it is stated, that a soldier of the regiment in question, while serving in the Peninsula, committed some irregularity, which subjected him to the sentence of the aforesaid court-martial to be flogged; that the Regiment being on the march it was halted, the halberts stuck up, the proceedings of the court read, and the culprit ordered to strip, when a Sergeant of the regiment, who, it may be presumed, was a deserving

soldier, recovered his musket, and stepping out of the ranks, respectfully saluted the Commanding Officer, and said,—‘ May it please your Honour, the culprit is guilty, but he is a brave soldier ; and if your Honour will take me as a security for his future good conduct, I’ll answer for him with my body ; and if he commits any future offence, I’ll be ready to offer myself up to receive the sentence of the present court-martial.’ ‘ You mutinous rascal,’ exclaimed the Commanding Officer, in a fury, ‘ I’ll teach you manners ! ’ His arms were taken from him, and he was sent a prisoner before the permanent court-martial, who not only reduced him to the ranks, but sentenced him also to be flogged for interceding in favour of a fellow soldier ; and while writhing in agony at the halberts, he ground his teeth, and muttered ‘ I will have blood for this.’ The man’s heart was broken, and the Commanding Officer escaped with impunity.”—(*The Marine Officer, or Sketches of Service.*)

Notwithstanding the cruel sentences which were awarded by courts-martial under the sanction of the Articles of War, and inflicted upon delinquents, the military law was characterized by Mr. Tytler as “*a well-regulated, moderate, and humane system.*” With the exception of death for certain crimes, the law specified no punishment, but it permitted or sanctioned almost any punishment, or any degree of punishment, which a court-martial in its discretion might award. “The penalties,” says Mr. Tytler, “which it is competent for the Sovereign to decree by his own authority, must at the worst be of a very *slight* and *subordinate nature*, and calculated merely for the improvement of good discipline.” One would presume that Mr. Tytler was but little acquainted with the practical administration of the Articles of War, and the penal usages of the army.

The influence of popular opinion on the subject of flogging began about this time to have a beneficial effect ; for early in 1812 the following circular letter was addressed to the officers commanding regiments, by the Adjutant-General :—

Horse Guards, 25th March, 1812.

SIR,

The Commander-in-Chief judges it expedient to transmit to you, with the enclosed documents, a few observations on the salutary effects with which it is reasonable to hope that an occasional recurrence to the powers with which you are hereby vested will be attended, amongst which the most obvious advantage is that of limiting the operation of regimental courts-martial strictly to the purposes for which they are designed by the Legislature, viz., for enquiring into such

disputes and criminal matters as may come before them, and for inflicting corporal or other punishments for *small offences*, and, in order to prevent the possibility of any misunderstanding on this important point, it is His Royal Highness's command, that on no pretence whatever shall the award of a regimental court-martial hereafter exceed 300 *lashes*.

The Commander-in-Chief has commanded me to take this opportunity of stating, that there is no point on which His Royal Highness is more decided in his opinion, than that when officers are earnest and zealous in the discharge of their duty, and competent to their respective stations, a frequent recurrence to punishment will not be necessary.

The Commander-in-Chief is confident the officers of the army are universally actuated by a spirit of justice, and impressed with those sentiments of kindness and regard towards their men which they have on so many occasions proved themselves to deserve; but His Royal Highness has reason to apprehend, that in many instances sufficient attention has not been paid to the *prevention of crime*. The timely interference of the officer, his personal intercourse and acquaintance with his men, (which are sure to be repaid by the soldiers' confidence and attachment,) and, above all, his personal example, are the only efficacious means of preventing military offences; and the Commander-in-Chief has no hesitation in declaring, that the maintenance of strict discipline, without severity of punishment, and the support and encouragement of an ardent military spirit in a corps, without licentiousness, are the criterions by which His Royal Highness will be very much guided in forming his opinion of the talents, abilities, and merit of the officers to whom the command of the different regiments and corps of the army are confided.

I have, &c.  
(Signed) HARRY CALVERT,  
Adjutant-General.

This confidential circular may be considered the first important step which was taken for meliorating the punishment of soldiers. After the wanton and inconsiderate sentences which had been awarded, and which were frequently awarded by regimental courts-martial, any restriction to their powers in this respect must have been highly beneficial, more, perhaps, from the spirit of the Commander-in-Chief's communication, than from the specific rule which it promulgated. But it may be observed, they had still a frightful opportunity of abusing the power with which they were invested. They could sentence a man to receive 300 lashes for a *small offence*, such as being absent at *tattoo*, although, perhaps, he might be in an adjoining barrack-room, or the constructive crime of "unsoldierlike" conduct. Many old officers, however,—individuals who had been educated in the school of vindictive routine,—believed, and did not hesitate to say, that to limit the number of lashes to 300 would destroy the discipline of the army. We are all prone to consider those means which we have long been accustomed to adopt in furtherance of an object, as not only justifiable,

but indispensably necessary. One officer, with whom I was acquainted, and who belonged to the same regiment as myself, swore that he could not, and would not, comply with the order ; "for," says he, "my conscience would not allow me to award a sentence of 300 lashes when I felt convinced that a man *deserved* 600." This expression reminds me of the conduct of a Governor of the United East India Company, who, writing to an officer who had been appointed Judge of Civil Affairs in India, thus expressed himself :—"I expect my will and orders shall be your will, and not the laws of England, which are a heap of nonsense, compiled by a number of country gentlemen, who hardly know how to govern their own families, much less to regulate our affairs."

Crime must, no doubt, be prevented if possible, and the means of prevention are the only proper objects of penal legislation ; but the infliction of pain is not the end of punishment ; it is simply a means for the attainment of the end—reformation and prevention. It is wrong in principle to suppose that punishment should be inflicted on an offender, in vengeance for the offence he has committed, as if the administration of justice was inseparably associated with the infliction of a large amount of suffering. No one can apportion retributive punishment who cannot judge of the motives of action. We never can know how much a crime may be expiated by remorse, contrition, and good resolutions.

The general tenour of the circular of the Duke of York, had obviously for its object, to reduce the extent of the punishment of flogging in the army. The supporters of the old established plan of discipline, or in other words, the unlimited flogging system, had always contended that no more flogging was inflicted than the necessity of the case demanded ; but from the Duke's circular it appears that he thought otherwise, and that the amount of corporal punishment might be reduced with advantage, and he hints, in pretty plain terms, that the Commanding Officer of a regiment would not increase his claims for promotion, or gain the Duke's favour, by requiring a great amount of punishment to preserve discipline in a corps.

Had the Duke of York issued a positive restraint against corporal punishments without previous examination, and without public discussion, Commanding Officers who had been checked in their practice by such a regulation, would have attributed every irregularity in the regiment to the Duke's order ; and, as has been observed by Sir Robert Wilson, "it must indeed be admitted that any partial direction of this nature is very difficult until the principle

of the practice is combated by argument, and all its evil consequences exposed by reasoning." The justice of this observation is obviously established and confirmed by the success which followed the public discussions on corporal punishment in the House of Commons, and by the periodical press. A large proportion of the officers of the army seemed to be so well satisfied with the efficacy of corporal punishment, however degrading and injurious it was popularly admitted to be, that they rarely considered the practicability of moderating its severity, diminishing its frequency, or of suggesting an adequate substitute. Corporal punishment was considered the *sine qua non*, without which the discipline of the army could not be maintained. "I am not the least surprised at this opinion," says Lord William Bentinck; "I must not forget that for many years of my life, in conjunction with ninety-nine hundred parts of the officers of the British army, I entertained the same sentiments. It is only from long reflection, from the effects of *discussion*, from the observation that since that time, though corporal punishments have diminished a hundred, perhaps a thousand-fold, discipline has been improved, and the soldier treated like a rational being, and not as a mere brute, that my own prejudice and that of others have given way. I now feel confident that the degradation will speedily disappear before a reasonable and enlightened legislation, even in the British army."

At one time the efficiency of an officer to command seemed to be estimated by his disposition to inflict corporal punishment. "I understand you have got a new Commanding Officer," said an officer of one regiment to that of another; "how do you like him?" "We like him pretty well," answered the other, "only he does not flog enough." How differently is the talent for command now appreciated, the *minimum* of infliction required to repress crime and preserve discipline being considered a satisfactory evidence of the *maximum* of qualification.

The salutary effects of the discussion of the question of flogging soldiers, in the House of Commons and by the public press in this country, became evident in America shortly after the promulgation of the Duke of York's circular. On the 10th April, 1812, an Act was passed by the American Congress, expressly putting an end to flogging in the American army.

Sect. 5. And be it further enacted, That in lieu of whipping, as provided by several of the rules and articles of war as now used and practised, stoppage of pay, confinement, and deprivation of part of the ration shall be substituted, in such manner as hereinafter provided.

Sect. 6. A convicted soldier shall, for the first offence, be put under stoppages of pay, as such court-martial shall adjudge, not exceeding the one-half of one month's pay for any one offence; but such offender may, moreover, at the discretion of such court-martial, be confined, under guard, on allowance of half rations, any length of time not exceeding ten days for any one offence, and may, at the discretion of such court-martial, be publicly drummed out of the army.

Thus it appears that the American Congress not only abolished flogging, but fixed the maximum of the punishment which they substituted for it, namely, imprisonment on half rations, at the moderate extent of ten days. Hitherto, no maximum has been fixed by the legislature of this country, limiting the award of a general or district court-martial in regard to a sentence of imprisonment. It appears, by the official returns of punishments in the army, that soldiers have been sentenced by these courts to confinement for periods extending from seven to 1826 days.

In a committee on the Mutiny Bill, (29th February, 1813,) Sir Samuel Romilly in vain attempted to obtain a declaration from the Judge-Advocate and the Secretary at War against the practice of bringing out soldiers to be flogged a second time, after as many lashes had been inflicted in the first instance as the offender could endure. The Judge-Advocate General admitted, however, that he had no hesitation in declaring his opinion of the *impropriety, injustice, and even illegality*, of inflicting the second part of a sentence, after the first had really produced all the suffering that was intended. This was an important declaration, although the reason assigned for considering a second infliction of a sentence illegal, is neither clear nor satisfactory. How are we able to estimate what degree of suffering the court-martial intended—the amount of pain endured by a delinquent? A court-martial, I believe, commonly thinks principally of the degree of an offence, and adjudges a corresponding number of lashes according to usage or a scale of their own framing, without taking much consideration in regard to the amount of pain thereby occasioned, or whether a man is able to endure the infliction of the sentence or not. The publicly expressed opinion of the Judge-Advocate General, in regard to the illegality of a second infliction of a sentence, was, no doubt, of considerable importance; but if an order was given to interdict second punishments, it does not appear that it was obeyed even at head-quarters, for we find that by the Regulations and Orders of Army (1822) soldiers were permitted, upon application, to commute for service abroad without limitation, the punishment awarded by a court-martial; but before

the permission was granted a man was obliged to emit the following declaration :—

I do hereby declare, that I am willing to serve, without limitation, in any regiment abroad, to which I may be attached, if the punishment, or *remainder of the punishment* (as the case may be) awarded me for \_\_\_\_\_, is remitted.

On the 8th March, 1815, when the report of the Military Bill was brought up, Sir Samuel Romilly moved that a clause should be added to it in these words :—" And be it further enacted, that it shall not be lawful for any court-martial, by its sentences, to inflict on any offender a greater number of lashes than 100." Mr. Manners Sutton, the Judge-Advocate, said that he wished to have time to consider the proposition, and to consult military men upon it, and requested Sir Samuel to withdraw his motion for the present, which he did ; this Bill being to continue only for four months.

When the Mutiny Bill was brought into the House, on the 21st June, Mr. Bennet gave notice of a motion for leave to bring in a Bill, to limit the number of lashes which courts-martial may, by their sentences, inflict ; and that motion he made on the same day, which was lost. A great point was, however, gained ; Mr. Manners Sutton, the Judge-Advocate, having declared, in the course of the debate, that in his opinion, *when a criminal had been brought out, and had suffered some portion of the lashes to which he was sentenced, it was ILLEGAL to inflict any more of them on him at any future time, or by the threat of inflicting them, to compel him to enter into any other regiment,*" in military phrase, to "keep the lashes hanging over him."

Not a word of commiseration seems, however, to have been expressed in regard to the hundreds or thousands who had been illegally, and consequently, cruelly and unjustly, punished by the infliction of second, third, or fourth punishments. The inhumanity and injustice of the measure, appear to have been long obvious to medical officers. Dr. Hamilton observed (1787), "If a delinquent be taken down, cured of his wounds, and then tied up again, he suffers a punishment equal to the whole each time, should he be tied up ever so often : surely this is what the court-martial never intended."

It may be remarked, that Mr. Manners Sutton had for a long period tacitly sanctioned the infliction of second punishments, and continued to do so until after Mr. Bennet introduced his motion. How much is it to be regretted that he did not sooner discover, or

perhaps I should rather say, sooner promulgate, his opinion of the illegality of a measure so pregnant with mischief.

The question respecting corporal punishment had, by this time, been so fully discussed from time to time in the House of Commons, and the opinion of the few officers who had in their publications disapproved of frequent flogging, so often quoted—namely, Sir Robert Wilson, Brigadier-General Stuart, and General Mooney,—that hopes began to be entertained that flogging would not long be practised in the British service, except for thieving, or some notoriously disgraceful act.

Among the many objections alleged against the punishment of flogging, one was, that it failed in its object; it neither reformed delinquents, nor prevented crime. This conclusion seemed to be warranted by the frequent recurrence of delinquencies; and it has been often observed, that in the regiments where flogging was much practised, crime became in a corresponding degree prevalent.

Perhaps the relative frequency of punishments in different regiments depends more upon the disposition of Commanding Officers, than insubordination of the men. Let the returns for a series of years be called for from each regiment in the service, and it will be found in some corps not a man has been flogged, and in others a considerable number. A similar result may be observed in the same regiment under different Commanding Officers. As the men are pretty much alike in all corps, the difference in regard to the number of punishments must be chiefly owing to the dispositions of the commanders. “If,” says Lieutenant Shipp, “an officer be of a tyrannical disposition, or an ungovernable temper, the cat will be found in frequent use in the regiment under his command. If the commander be a man of humanity, and possess a heart of kindness, he will admonish, advise, encourage, and endeavour to infuse into the minds of youth a kind of parental love and affection. In the regiment where mercy reigns, discipline, order, harmony, and peace of mind will be found; but in the regiment where rigid flogging is practised, discontent, disorder, and a great deal of bad feeling towards the officers, are sure to prevail.”

No one doubts, I believe, that many men who underwent corporal infliction were good soldiers, not a few of them having been made non-commissioned officers, and some having been promoted to the rank of commissioned officers. The promotion of soldiers who have been corporally punished during the war need not surprise us, when we take into consideration the numbers who had under-

gone that infliction, amounting, as is alleged, in some regiments, to one-third, or one-half of the strength, and also the trivial nature of the offences for which men were at one time flogged. There is little doubt that many good men were flogged—men who distinguished themselves as brave and well-conducted soldiers, notwithstanding the degrading infliction they had endured. It was too much the practice at one time to punish the offence rather than the man; and this seems to be the vindictive principle of military law, as courts-martial are instructed to take cognizance of delinquencies “according to the nature and degree of the offence.” The equity and utility of punishment is, I fear, often too little thought of.

In the discussions which took place in Parliament on the subject of military flogging, the question principally agitated was, whether the infliction of this kind of corporal punishment ought to be admitted on the military code, while comparatively little attention was directed to the expediency of limiting its severity, and restraining its frequency. Admitting that in extreme cases the infliction of corporal punishment may be considered necessary, or rather useful, for the prevention of delinquencies, that it would in fact be productive of more good than harm, just as we conclude in regard to capital punishments; it is impossible, to defend that mode of chastisement, when inflicted from a vindictive spirit for minor offences, when the scale of punishment, measured by the average powers of human endurance, is excessive, and when its infliction approaches to what may be called frequent. No one who is acquainted with the usages of the army can deny that the punishments awarded to delinquents were sometimes enormous—far, very far beyond what an average of mankind is able to endure. This cruel absurdity eventually attracted the attention of His Majesty George III. A General Order, of the 30th January, 1807, promulgating the sentence of a court-martial on a private of the 54th Regiment, who had been sentenced to receive 1500 *lashes* for mutinous conduct, contained the following observations:—“It appearing to His Majesty, that a punishment to the extent of 1000 *lashes* is a sufficient example for any breach of military discipline, short of capital offence; and as even that number cannot be safely inflicted at any one period, His Majesty has been graciously pleased to express his opinion, that no sentence for corporal punishment should exceed 1000 *lashes*.”

In May, 1807, a man belonging to the 67th Regiment was tried by a court-martial in Bengal, and sentenced to receive 1500

*lashes*, which sentence was approved and confirmed by competent authority.

The following is the largest amount of punishment which I have known inflicted upon a man, for one and the same crime:—In 1813 or 1814, when a wing of the Bengal European Regiment was stationed in the island of Amboyna, three men belonging to the corps were tried by a court-martial for marauding and ill-treating the natives, and were sentenced each to receive 1500 lashes. A punishment parade being formed, immediately after the reading of the sentence, one of the prisoners sprung forward, seized the Drum-Major's sword, and called upon the men in the ranks to come forward in his favour,—a request to which they did not respond. He was forthwith secured; and having been lashed to the triangles, received the whole amount of his sentence, 1500 lashes, well applied. The other two prisoners received each the same number, equally well inflicted. In the framing of laws rigour is necessary, but in executing them mercy is essentially required. The converse appears to have obtained in the above cases, the punishment having been more severe than was warranted by either former usage or express regulation.

The prisoner who was first punished, was subsequently tried for his mutinous conduct in the square of the corps, and having been condemned to death, the sentence was inflicted by his being shot with musketry.

To the honour of General Fox, it ought to be mentioned, that when he commanded in the Mediterranean, he sent back those courts-martial which awarded excessive sentences, observing, that punishment should never be cruel, and that no court should sentence a soldier to receive more lashes than what the members themselves thought right to be actually inflicted.

As God hath not given to many men a constitution calculated to enable them to endure extremely large punishments,—such sentences as were sometimes awarded,—it had long been the custom of the service to complete a sentence at a period subsequent to the first infliction. The award of the court sometimes expressly stated that the delinquent was to be punished at such *time* or *times* and *in such portions* as the Commanding Officer might think fit to appoint, but the express permission to carry the sentence of a court-martial into effect by instalments does not appear to have been considered indispensably necessary; second punishments was a usage of the army, and indeed, it may be observed that a court, in awarding such a punishment as 1000 lashes, must, one would

think, have contemplated the probability of a second infliction, if not the certainty of it, unless a part of the sentence was remitted.

We tolerate (says Sir Samuel Romilly) this species of punishment, this refinement of cruelty; we permit a fellow creature to be driven to the very verge of existence, a surgeon standing by to feel the pulse of the sufferer, and to pronounce at what moment exhausted nature can bear no additional infliction. Then, when his soul is about to forsake his body and to leap into eternity, then, indeed, the poor wretch is taken down from the halbersts, and removed into an hospital, where he is left, his body more at ease, but his mind still upon the rack, reflecting that the faster his wounds heal, the nearer he is to a renewal of his sufferings, and that his life is thus cherished by his tormentors only that it may be again subjected to their torments.

There is great cruelty (says Sir Robert Wilson) in bringing men out at different times to receive the remainder of a sentence, as soon as the tender skin has covered former wounds. I could mention some terrible instances, if evident reasons did not check me; and if the corrections of such abuse can be secured in future, there is no necessity to distress the mind with circumstances which have had already their full operation; but only in very aggravated cases of criminality, indeed, should the remainder of a sentence be inflicted at different periods, particularly as the excess, and not the prescribed mode of punishment, which is frequently the case in civil law, prevents the execution of the whole sentence in the first instance.

Commanding Officers sometimes appeared to rest satisfied if a certain degree of pain was inflicted on an offender, as if the infliction of pain were not an evil which can only be justified by its probable prevention of a much greater evil. The back and the heart both have feeling, and it would be well if every Commanding Officer reflected upon this when the cat is cutting the back of a soldier. The severest punishment will commonly fail in eliciting the slightest evidence of contrition and penitence, while the tear of repentance is often brought from a delinquent's eyes by a word of kindness or a breath of tender feeling from a Commanding Officer.

The observations of His Majesty, which we have quoted, in regard to the extent of punishment, did not by any means put an effectual stop to courts-martial sentencing men to receive punishments far above 1000 lashes. The late Marquis of Hastings made the following remarks upon the proceedings of a court-martial which was held in the Presidency of Bengal in the year 1817:—

The Commander-in-Chief has confirmed the foregoing sentences to avoid the loss of time which an instruction to the court to revise them would occasion; but His Excellency conceives it advisable to point out to the court the *inexpediency* of awarding a punishment which can

never be inflicted, in the instances of J. D., J. B., and W. J., who are sentenced to 1500 lashes each.

The Commander-in-Chief reduces the corporal punishment to 500 lashes each, and orders the punishments allotted to J. C., D. D., and M. W., to be mitigated to the same number respectively.

In the evidence given on military punishments before the Commission, it appears (Quest. 822) that a court-martial held at Dinapore on the 12th September, 1825, sentenced a man to receive 1900 lashes, which sentence was reduced by the Commander-in-Chief to 1200 lashes.

It is to be inferred that the officers concerned in awarding the above enormous sentences were ignorant of the General Order of the 30th January, 1807, there being no other way of accounting for their disregard of His Majesty's direction.

Example, as has been observed, can only be legitimately obtained through the medium of justice ; but as there is no rule to determine what degree of punishment is necessary to be inflicted in order to deter others from crimes, legislators and courts-martial have, in former ages, been induced to carry punishments to their greatest possible extent, so as to make example still more terrible and striking ; and thus the idea of the prevention of crimes by the severity of punishments has been the principal cause of their infliction to a most unwarrantable extent, while the ultimate object has been completely defeated. Outrageous and very ignominious punishments, from their bad effect on the mind of the criminal, and their tendency to excite the sympathy rather than the indignation of spectators, ought never to be resorted to, the infliction of death being perhaps a less evil. In the army, where a willing and zealous obedience is so necessary, degrading punishments should be avoided ; yet long after civil subjects were in a great measure protected against torture and infamy, ignominious punishments were inconsiderately inflicted on soldiers for very trivial offences. These severe, perhaps I may say cruel, sentences, which were awarded by a body of military officers, (a court-martial,) were tacitly sanctioned by lawyers of the first eminence and by judges of the highest courts in the country. "In 1792," says Mr. Tytler, afterwards Lord Woodhouselee, "Sergeant G. S. Grant was sentenced to 1000 lashes, in addition to his loss of rank and pay as Sergeant, for the crime of having been instrumental in the enlisting for the service of the East India Company two drummers, knowing them at the time to belong to the Guards ;" and while he records this horrible sentence, he

calls the code under which it is awarded "*a well-regulated, moderate, and humane system.*" On a motion which was made in the Court of Common Pleas for a prohibition against the execution of the sentence upon Sergeant Grant, the validity of the award was confirmed by the court. Lord Loughborough, then Lord Chief Justice, in delivering the opinion of the court, expressed no disgust at the dreadful sentence of the court-martial. "Here," says Sir Charles Napier, "are two enlightened civilians, and one a Lord Chancellor, who discuss this sentence without being shocked at its barbarity! Far better would it be to shoot a man than inflict such a chastisement."

Heavy punishments seem to challenge the fortitude of delinquents, some of whose tempers are thereby greatly deteriorated. Crime, it is said, thrives on severe examples, and ever in strict competition with them.

There are sentences of courts-martial (said Sir Charles Grey, in his place in the House of Commons, March 14th, 1834) which, if inflicted, would amount to loss of life; and I think when the punishment is to the extent which we sometimes hear of, it is *degrading rather to them who inflict it than to the sufferer*, and especially degrading to the noblest art to which human talent can attain—I mean the art of healing—when the attendance of a medical man is rendered necessary, *not to assuage pain and relieve suffering, but to ascertain the extreme limit of human endurance.*

Courts-martial, but especially general courts-martial, have more courage, and apparently much less humanity, than most individuals. They can bear odium better, responsibility being attached to no particular member. They have a strong tendency to exercise their large discretionary powers with fearful severity. So many circumstances may arise which will tend to diminish or aggravate a military offence, that it is impossible for human wisdom to provide for such contingencies by appointing specific punishments for certain crimes. But while much latitude should be left to the judges, experience teaches us that bounds should be fixed which would limit the severity of their sentences. The penal codes of all civilized nations, so far as I know, have long fixed limits to the award of judges in secondary punishments. In this country, however, until very lately, general courts-martial were not restrained by any law in regard to the amount of lashes they might award, and even at present they are not limited in their sentences when they award the punishment of imprisonment.

With respect to the discipline of regiments, I may observe, that when a soldier is brought to a regimental court-martial, the Com-

manding Officer has previously examined the case, and must be supposed to presume that the prisoner is guilty : he then assumes, almost in spite of himself, the feelings of a prosecutor, and, as a consequence of this position, he may disapprove of an acquittal, or think the sentence too light. In this mood, he orders the court "to revise the sentence ;" and instances have occurred where courts-martial have been threatened with the accusation of contumely for refusing to augment an already awarded sentence, when their reasons for lenity were but too well founded.

The members of a regimental court-martial, who had disappointed the Commanding Officer by acquitting a soldier, were ordered to wait upon a General Officer to account to him for their decision. To an observation made by the General, one of the members replied as follows :—" When I became a member of the court-martial in question, I swore that I would duly administer justice without partiality, favour, or affection, according to the best of my understanding ; and, having done so, I did not expect to be called before any tribunal in regard to our decision, but my own conscience, with which I am at peace." " That will do," said the General, " you may all go."

It was lately stated, in a respectable periodical, that a soldier was tried for desertion, and sentenced to imprisonment and corporal punishment ; but the General thought that the example of death was requisite. He returned the proceedings, or rather the sentence to be revised : the court complied with his wishes, and the man was shot.

Ten times out of twelve, however, when a Commanding Officer directs the proceedings of a court-martial to be revised, for the purpose of augmenting a sentence, it is returned to him unaltered. On this subject Sir Charles Napier asserts, that he never knew a single instance in which a revision with a recommendation to be more *merciful* was not at once complied with.

As to the frequency of corporal punishments in the army, when these discussions took place, nothing specific was publicly known. In April 1812, Sir Samuel Romilly moved in the House of Commons for a return of the number of corporal punishments which had been inflicted in the regular army and the militia during a certain period ; but he was opposed by the ministerial side of the House, and his motion was lost. It was observed on the occasion, that in as far as regarded the militia, no undue frequency was to be feared, because the officers are generally magistrates, or have served on grand juries ; but Sir Robert

Wilson had previously stated, in 1804, that corporal punishment was more frequent in the militia than in any other department of the service, and supported his observations by making it appear that if as many men were flogged annually during the next six years as had suffered in the two or three preceding, the whole 70,000 would have undergone this inhuman and degrading punishment. And we learn from Macdiarmid, (*Principles of Military Subordination*), that the discipline of the militia was more severe than in the regular army. "In the old regiments of the line," says our author, "the abuses and errors of the young and ignorant are in some measure checked and corrected by the counsels and authority of the elder officers,—men who have long and often, from a very severe train of experience, learned the proper methods of dealing with human nature. But in the militia regiments, where no experienced officers are found, the abuses I have mentioned have full swing. To ply the cat-o'-nine-tails without mercy is there thought the only means of rendering men good soldiers; and the most disgraceful outrages daily pass on parade. How can it be otherwise where the teachers know no difference between instructing a man and training a horse? where they know nothing of the business of teaching, unless what they have learned from assisting a gamekeeper to break a pointer?"

In 1811, or 1812, I recollect seeing thirty-two punished men at one time in a regimental hospital on a foreign station. The ratio of men admitted into hospital, in consequence of punishment, in Jamaica, during the year 1817, the first year of which we have any correct record, was one in five of the strength; but if we deduct the non-commissioned officers, who were not likely to incur the punishment of flogging, it would be nearly one in four privates. It may be observed, that this may not be the full amount of corporal punishments, inasmuch as men were not admitted into hospital unless the infliction had been so severe as to unfit them for duty. The advocates for the efficacy and necessity of flogging frequently allege, that soldiers are rarely possessed of any education, that they have no principles to guide them, and that they know nothing of self-control as a voluntary habit; and hence it is concluded, that the punishments which are required to preserve discipline must be severe, in order to produce any useful effect. The purport of this argument apparently is, that flogging is cheaper, and requires less labour, than instruction. If a soldier is uneducated, why not adopt means to teach him? Good prin-

ciples and self-control may follow ; and certainly much faster under humane kind treatment and good example, than under the summary method of flogging, which, when unrestrained, used often to be inflicted without discrimination, without mercy, and without any definite object. "That commonwealth," says Reginald Scott, "remaineth in woful state, where *fetters* and *halters* bear more sway than mercy and due compassion."

It cannot be too strongly impressed upon the minds of officers, that the crimes which are annually committed by soldiers are intimately connected with the constitution of the army ; and since the number of delinquencies is not likely to diminish unless the causes which induce them undergo previous modification, it becomes the duty of Commanding Officers to endeavour to ascertain these causes, and to obviate them as much as possible. Desertion, for example, is a military crime or delinquency nearly peculiar to the army ; now, when the offence becomes frequent, it must depend upon some general or special causes, which should be carefully investigated.

The advocates for the punishment of flogging usually allege that it is necessary in consequence of the intemperance of soldiers of the British army, compared with those of other nations. But, upon consideration, it must be admitted that flogging is by no means an effectual specific against intemperance ; indeed, it is much more likely to render a tolerably good man, although an erring soldier, "a hardened rascal or a sneaking villain." To apply the same kind of punishment to all delinquents is a species of empiricism in legislation, which pretends by a certain nostrum to cure a certain crime, without any reference to the state of the party on whom the specific is tried.

It is alleged by some military officers, that flogging cannot possibly be abolished while the army is composed of the present description of men ; but so long as this ignominious punishment is continued, how can we rationally expect that a better description of men will enlist, and remain in the service ? If the vice of intemperance be curable, it must be by treating men as reasoning beings, not as brutes, by raising them in the scale of society, and inspiring them with a sense of honour and a dread of shame. The superior courage of the officer over the private may, in all probability be materially attributed to a higher sentiment of honour, and a greater fear of disgrace. Von Raumer delivers it as his opinion, that "so long as the soldier is liable to corporal

punishment, nobody will voluntarily embrace the profession of the army who is not destitute of moral feeling and discovers no degradation in punishment."—(*England in 1841*, vol. i., p. 40.)

The British army consists of two very distinct classes, namely, officers and soldiers. One class is trained to command, and the other to obey,—obedience being the most essential element in military discipline. Recruits, in general, enlist without consideration, and enter into an indissoluble contract, respecting the nature of which they are for the most part totally ignorant. Most of them enlist from mere thoughtlessness and domestic broils; some from misery or want of the means of sustenance, which may arise from idleness, or from the difficulty of procuring suitable employment; and not a few from temporary ineptitude. In the course of time, the soldier perceives the barrenness of his situation, and the never-ending nature of his engagement. He frequently sees men, not his superiors in talent or merit, rising to wealth and distinction in the world, while he feels that he is stationary for life, and that his prospects are not likely to mend. He may, and no doubt frequently does, overlook the numbers who fail, from having fallen victims to misfortune and poverty. It need not therefore surprise us, that men constantly suffering under the irksomeness of military restraint, unrelieved by any variety of amusement, occupation, or encouragement, and conscious that good conduct leads to no adequate reward, should evince impatience at the severity of discipline, and endeavour to liberate themselves by desertion, having no hope of obtaining freedom, within a moderate period, by any other means.

But it may still be asked, Are the means usually employed to preserve order in the army the most humane that might be adopted, not only with safety, but with advantage? Have severe and degrading punishments been effectual in preventing crime? Are not sound policy and humanity not only compatible, but inseparable? When we look at the returns of punishment inflicted, it can hardly be concluded that the means hitherto adopted to promote discipline in the army have been very successful. On an average, about twenty per cent. of the troops serving in the colonies and foreign dependencies are annually punished by the sentence of a court-martial; about two-fifths of the whole number of convictions are for habitual drunkenness. "Desertion," and "absence without leave" are the most prevalent crimes among troops employed in Great Britain and Ireland; in 1839, no fewer than 2110,

being nearly equal to one-fifth of the number of recruits annually raised, were convicted, and punished, for these two offences.

The frequency of delinquencies in the army has been commonly attributed to the circumstance, that it is recruited from an inferior class of the population; by which means uneducated and low-born persons are admitted into the ranks. How far this surmise is well founded, it is difficult either to prove or disprove. Considering, however, the unfavourable opinion entertained by the public in regard to the army, the onerous duties and thraldom of soldiers, and the limited remuneration they receive for long and arduous services, I do not think a more prudent and better class of men are likely to become soldiers.

There is much reason for concluding that the disposition of soldiers to commit military offences is acquired after they have joined the army. It is notorious that recruits are commonly better behaved than older soldiers, though they speedily acquire many of their evil ways, such scope being afforded for the development of bad passions, and the sphere being so narrow for every virtue, except obedience (subordination), which is not itself a virtue. When the temptation to irregularity is great, without moral restraint the most virtuous and intelligent of the kingdom would be destroyed by it.

A.D. 1824 (15th March).—Mr. Hume submitted a motion to the House of Commons, for the abolition of flogging in the army, which was lost; forty-seven members voted in the minority, Lord Althorp being one of the tellers.

A.D. 1827 (12th March).—Mr. Leycester submitted a similar motion, which was lost. On this occasion Sir John Hobhouse said, “He had attentively listened to what had fallen from the gallant officers in the army on the subject; but the only reason they gave for defending flogging, that he could discover, was, that it ought to be continued because it had existed. He had heard an officer say, that in his regiment some of the men were brought out so frequently to be flogged, that they were known by the name of the ‘flogging-blocks.’ And this circumstance demonstrated, that so far from flogging making them better soldiers or men, no good could be derived from it; and as no benefit resulted from the revolting custom, it ought to be abolished, as being a national disgrace, and as placing our army, in its discipline and honour, second to that of France.”

The practice of thus flogging alleged incorrigible soldiers, for

the sake of example, when all hope of reformation had been abandoned, has been carried much too far. To punish a man very severely, ostensibly for an offence which deserves only a slighter punishment, but in fact in the expectation of deterring others from the perpetration of similar crimes, is an iniquitous practice, and cannot be justified ; yet persons have been put to death for the sake of example, who would not have been executed for the crime itself ; and this motive has been openly avowed. “Take for example the story so often repeated, and so much relied on, that when a man convicted at Hertford assizes of horse stealing, complained that it was cruel to hang him for only stealing a horse, the Judge told him that he was not to be hanged for only stealing a horse, but that horses might not be stolen. Now, if the criminal was not hanged for stealing a horse, he was unjustly put to death.” When we reflect on the history of the punishments which have from time to time been inflicted for the sake of example, we cannot help expressing our wishes that this principle may cease to be adopted as the motive and guide by which the powerful may rule their poor and erring brethren. The condition of convicted military offenders should no doubt be felt to be a serious abridgment of the enjoyments of well-behaved men ; but under any circumstance, can it ever be advisable that one pang of suffering should be added to their lot, for the sake of deterring others, if that pang be not calculated to prove beneficial to themselves ?

The infliction of severe and frequent punishments in a regiment, diffuses throughout the corps a sanguinary or unfeeling spirit, which infects both officers and men. The officers come, from habit, to consider flogging as essentially necessary to preserve discipline, while the men become resigned to the evil, and, it is alleged, eventually believe that it cannot be safely dispensed with. It is a notorious fact, that when flogging was at its height, it was counted no great disgrace, indeed it was sometimes made a boast of, and instances have occurred where to have suffered from the lash was reckoned a qualification necessary for becoming a good comrade. A soldier who had been frequently punished, was ordered to strip to receive another flagellation. He refused at first to take off his clothes ; but when coercive measures were resorted to, he submitted, and received his quantum of punishment without complaining ; and when taken down, he said to the Colonel, “Colonel, honey ! if you will give me six drams of liquor, I will take 600 lashes more.” This man prided himself

exceedingly on the number of lashes he had received, and used to expose the cicatrices on his back, to his comrades. Many excellent officers and worthy men allege, that those regiments in which flogging has been least practised, have been the best behaved; and numerous cases have occurred, where the number of corporal punishments inflicted, varied with the change of Commanding Officers to an infinitely greater degree than the change of circumstances with respect to discipline, or the commission of crime. A low degree of discipline not unfrequently exists with a high degree of flogging—a circumstance which shews that the discipline which depends upon the fear of the lash is precarious, little to be trusted, and will not stand the test of temptation—even the temptation to render the Commanding Officer ridiculous. Major —, while he commanded the African corps—a corps which was always notorious for corporal punishment, was one Sunday reading the morning service of the Church to the men, who were formed into a square. The Major, who was from north of the Tweed, spoke and read the English language with the broad accent of the natives of one of the counties in the north of Scotland. Upon reading the Creed, and pronouncing, in his own queer way, the words, “Suffered under Pontius Pilate,” a wag in the ranks, well known for his uncontrollable propensity to joking and fun, exclaimed, “Wha’s Ponshews Peelete, I wonder?” The Major paused, and laying aside the Prayer Book, said, “Ah, John, is that you at your jokes again? just come out here, my man.” The soldier stepped forward, a drum-head court-martial was held, the triangles rigged out, and John received 100 lashes without saying a word. The flogging having been completed, the Major resumed the Prayer Book, and finished the service of the day.

The Articles of War enact, that “all crimes not capital, and all disorders and neglects of which soldiers may be guilty, to the prejudice of good order and military discipline, shall be taken cognizance of by courts-martial, according to the nature and degree of the offence;” in other words, at the discretion of the members. They could not only define the crime, but until 1812, it was in their power to award unlimited corporal punishment. This Article was known among the soldiers by the denomination of the “Devil’s Article;” and for a long time more than half the offences were tried under its provisions, the punishments inflicted being almost invariably flogging. Under this Article, a court-martial has extensive powers for punishing constructive delinquencies; and so long as flogging was the punishment for *every*

*crime*, and courts-martial could award an unlimited number of lashes, the cat-o'-nine tails was employed to an extent which old officers are ashamed to own, and which young officers will scarcely credit. Flogging was often inflicted from usage, routine, or want of thought, and justified because committed. A modern advocate or apologist for the use of the cat, admits, that "*The extent to which flogging was carried until late years, was brutalising in its effects, and disgraceful in the extreme to a Christian nation; it was inflicted alike upon the young as upon the old soldier and offender, and for every denomination and degree of offence: its indiscriminating use broke the spirit of many a noble mind, whilst its frequency rendered almost nugatory its effects as an example to check, and paralysed in a great degree the good which would otherwise have attended it.*"—(*Naval and Military Gazette.*)

A practice crept into the army, which consisted in giving a soldier who fell under the displeasure of his Commanding Officer, the choice either to receive a certain number of lashes, (say fifty, 100, or 150, as the case may be,) or to abide the decision of a court-martial. "I have, myself," says Lieutenant Shipp, "been ordered by the Commanding Officer of a regiment in which I served, to give soldiers who had offended, the option of submitting to receive a stipulated number of lashes, or of standing the chance of the award of a court-martial." The object of some Commanding Officers in thus punishing men, probably was to screen a delinquent from a portion at least of the punishment attached to his offence; but perhaps others did it to save the trouble of assembling a court-martial, or to prevent publicity. These punishments were inflicted in comparative privacy, being witnessed only by the troop or company to which a delinquent belonged, instead of, as usual, by the whole regiment.

Flogging having been for a considerable time the only punishment in use in the army, and having been frequently inflicted, it came at length to be considered an indispensable and efficacious specific—a moral *panacea* eminently calculated to prevent insubordination and other military offences—a measure without which all other means of preserving discipline was unavailing. Owing to a similar cause, a fallacy of the same kind long prevailed in regard to the use of mercury in the venereal disease, it being believed that this disease could not be effectually cured without the exhibition of a certain quantity of that drug. Later and more careful experience has proved that the exhibition of mercury is not

only, not essentially necessary for the cure of the above disease, but that it is often productive of much injury to the constitution. A similar discovery has also been made in regard to the use of the cat-o'-nine-tails : this instrument is not now considered an indispensable specific against military delinquencies, other measures having been found as efficacious, perhaps more so—measures which are less revolting and less demoralizing.

The frequency and severity of corporal infliction in the army eventually excited, as has been observed, the attention of the public, the periodical press, and a few Members of Parliament. Measures of restriction were officially promulgated, and reports from General Officers called for, by which means it soon became known that any excess or heedlessness in the infliction of punishment would not pass unnoticed at the Horse Guards. A new system in the course of time sprang up in the army, and it became the general practice of Commanding Officers to check the offences of soldiers in a great degree, by the infliction of what were called *minor punishments*, namely, punishments inflicted on their own authority, such as extra drills, heavy marching drills, additional parades, extra guards, confinement to barracks or guard-room, gagging, wearing the jacket inside out, drinking salt water, bread and water diet, stopping a man's ration of grog, or diluting it with an unusual portion of water, trotting round in a circle, standing fully equipped in heavy marching order with the face to a wall, parading at the guard-room fully equipped every hour during the day, the stocks, the log, the dry-room, the black-hole. The last four modes of punishment require a little explanation.

*The Stocks.*—Military authorities are much divided in regard to the use of the stocks as a reforming and deterring punishment. Some officers recommend it, while others consider it too ignominious as a military punishment. Lord Hill thought the punishment of the log (and the stocks is liable to the same objection) too degrading. “I think,” said his Lordship, “the log is a punishment more for a beast than a man, and I should think it was not desirable to restore it.”—(*Evidence on Military Punishments*, Quest. 5744.) The public exposure of an offender as a punishment, is liable to many objections, even in civil life, but still more so in the army, where self-respect and magnanimous feelings should be sedulously cultivated. In consequence of the recent direction of public opinion, degrading punishments have been lately withdrawn from most of the codes of penal law in Europe. It is worthy of remark, that some officers who think the log too

degrading a punishment for a soldier, and disapprove of its use, continue to resist every attempt which is from time to time made in Parliament to abolish the practice of flogging in the army. I may here ask, Do they consider punishment with the cat-o'-nine-tails less ignominious than the log or the stocks ?

*The Log.*—This punishment consisted of a log, or a large round shot, or shell, which was connected to a delinquent's leg by means of a chain ; and he was obliged to drag or carry this about with him on all occasions, except when he mounted guard. In one regiment, which was quartered in Richmond barracks, Dublin, in 1821, from twenty to twenty-five men were frequently seen marching together round the barrack square, each dragging a log behind him. I believe the punishment of the log was about that time interdicted in the garrison of Dublin, by the late Sir Colquhoun Grant.

*The Dry-Room.*—The dry-room, or penitentiary, was, originally, I believe, an East Indian punishment ; and obtained the designation from the circumstance of the men being kept in a state of confinement, and deprived of their spirit rations : hence, the term dry-room. The delinquents were much at drill, and sometimes their diet was reduced to bread and water. From forty to fifty men belonging to a regiment were sometimes in the dry-room at one time. The ignominy of a punishment diminishes in proportion to the numbers who undergo the penalty together. To confine thirty or forty offenders in one apartment, is a sure means of corrupting the moral atmosphere, and rendering the bad worse.

In the Prussian army, non-commissioned officers and certain other classes are liable to punishment of arrest of three kinds, namely :—

1. Arrest in barracks or quarters.
2. Solitary confinement, on bread and water, and no bed.
3. Solitary confinement in a room without flooring, but only joists placed edgeways.

The punishment of a Corporal in the Austrian army is solitary confinement, on bread and water, with or without irons, in an upright or stooping position, as follows. Privates are liable to the same punishments ; namely :—

1. *Long Shackling (Lang Schliesen)* consists in chaining the wrists to the ankles, but so as to allow a man to stand nearly upright.
2. *Short Ironing (Kurtz Schliesen)* consists in shackling together the opposite wrist and ankle for a period not exceeding forty-eight hours, with an interval of relief of an hour at the end of every six.

In the Austrian army, these modes of shackling delinquents may be inflicted by a Captain or by officers of higher rank.

*The Black-Hole* (a cell with scarcely any light).—The name is sufficiently characteristic of the place in which soldiers were, in former times, frequently immured. Soldiers who are intoxicated ought not to be, as is sometimes the case, confined by themselves in a black-hole. A drunken man should, generally speaking, be considered a sick man, being often *apoplectic, paralytic, and insane*. He is consequently unable to take care of himself, and should be carefully attended to by others. Let us suppose that a drunken man rolled off the cot in the black-hole, and lay all night on a stone or mud floor during severe weather in winter in this country or in Canada, in what condition might we expect to find him next morning? Certainly more dead than alive.

Until lately it was the practice in some regiments to confine a man in the black-hole for forty-eight hours, and after an interval of twenty-four hours to repeat the confinement for forty-eight hours, and so on. Nay, in some regiments men were confined at the discretion of the Commanding Officer for periods not only exceeding forty-eight hours, but amounting to seven days. *Congee-house* is, in India, nearly synonymous with black-hole in this country. As a general usage in the army, the diet of prisoners confined in a black-hole is restricted to bread and water. In India, it is limited to bread and *congee*, the water in which rice has been boiled. The custom of restricting the diet of military prisoners is very ancient. One of the Orders of the Earl of Essex (1642) is as follows:—"He that absents himself when the signe is given to set the watch shall be punished at discretion, either with bread and water in prison, or with the wooden horse."

The black-hole (says an Old Soldier) was no doubt invented by some gloomy and good-natured soul, who loved a sedentary life, for the punishment of the minor offences incident to a soldier's life, and which when frequent, are in their opinion and wise judgment, subversive of military discipline, and highly disgraceful to the profession. I will instance some of these offences which call for incarceration in solitude:—sneezing in the ranks; scratching your head; letting the butt of your firelock fall on your Captain's toes; singeing his whiskers by filling your pan too full; wiping your nose on a chilly morning; treading upon your Captain's heels; looking cross. These, with a hundred others equally shocking, happen daily, and all are considered as deserving of seven days' solitary confinement in the black-hole. (Lieut. Shipp, *The Military Bijou*.)

These minor punishments were greatly modified by a Circular

Letter, addressed to Commanding Officers of regiments and dépôts by the late Adjutant-General, Sir Herbert Taylor, dated Horse Guards, 24th June, 1830. This Letter continues, according to Sir John Macdonald, to be the key-stone of that branch of military discipline which comprehends minor punishments. "Any officer," says Sir John Macdonald, "that chalks out to himself any sort of punishment not alluded to in this Letter, commits an irregularity which, when discovered, would of course be censured; therefore I do not think that it rests in the breast of the Commanding Officer to inflict any punishment now, without going to a great risk, except those stated in that Letter."—(*Evidence on Military Punishments*, Quest. 35.)

According to the Letter of Sir Herbert Taylor, it appears that Commanding Officers are authorised to place a soldier in close confinement, not preparatory to a court-martial, for a period of forty-eight hours, of their own authority, but not longer. They are also empowered to award confinement to the defaulters' room for a period not exceeding seven days, the delinquents taking all duties and drills during that time, and confinement to barracks for a period not exceeding two months.

Officers in command of regiments may, at their option, delegate to officers commanding troops or companies and to the Adjutant, the power of ordering punishments for minor offences, not exceeding three days' drill with confinement to barracks.

A.D. 1828 (10th March).—In the House of Commons, Lord Nugent moved a clause to be inserted in the Mutiny Bill, for the purpose of abolishing "the punishment of flogging, or any other such bodily chastisement to be inflicted on any offender, save and except for drunkenness on actual military duty, theft, fraud, or for assault with intent to commit felony," which was negatived without a division. Lord Nugent remarked, "that the continuance of this system of corporal punishment is a national disgrace and reproach to us, in the minds of foreigners. We are in the habit of censuring the barbarous customs of other times and other countries, and taking credit to ourselves for pre-eminence in the freedom of our institutions, yet we are the only country in the world who inflict the punishment of a slave on the soldiers of our free state. Some improvement has taken place in the army with respect to the administration of the cruel punishment, and if so, it is the rising spirit of the times which has occasioned the system to be mitigated. I now conjure this House," says his Lordship, "for the sake of its character—for the sake of the army—for the sake of the country—

for the sake of humanity—to entertain the proposition which I have submitted."

Mr. Wilbraham observed, that those who wish the punishment of flogging to be removed do not contend against severity of discipline, but they do contend against the peculiarly degrading character of the punishment to which soldiers in the British army are subject.

A.D. 1829 (10th March).—Mr. Hume moved that a court-martial should not be authorised to award a sentence exceeding 500 lashes, which was negatived.

A.D. 1832 (16th February).—Mr. Hunt moved for a return of the number of courts-martial held upon private soldiers between the 1st day of January, 1831, and the 1st day of January, 1832, stating the charges against each individual, and the number of lashes inflicted, which motion was lost by a majority of 61 to 28.

Lord Althorp opposed the motion, stating, at the same time, "that from all the communications which he had received from officers of the army, it was his opinion that it was impossible, consistently with the discipline of the army, to dispense entirely with the punishment of flogging." Sir John Hobhouse, Secretary at War, admitted that he entertained strong objections to the practice of flogging in the army. He, however, opposed Mr. Hunt's motion; but the grounds of his opposition, he said, had no reference to the abstract question of flogging, but only to the particular question he brought forward as to the returns. It may be observed that Lord Althorp and Sir John Hobhouse had, on former occasions, expressed opinions in the House of Commons adverse to corporal punishment. His Lordship appears to have been greatly influenced in his opposition to Mr. Hunt's motion by the opinion of officers of the army. Military officers have very generally advocated the efficacy and necessity not only of corporal punishments but also of the power of awarding severe sentences.

2nd April.—Mr. Hunt moved that corporal punishment should be abolished in the army for one year, which motion was withdrawn. Sir John Byng observed that he had been thirty years in the service, and "I will venture to say," said he "that the punishment is not now inflicted to one-fiftieth part of the extent it used to be. Within the last ten years it has been reduced to one-tenth." To whom, it may be asked, is the reduction of corporal punishment in the army to be attributed?

Mr. Hume thought the public had a right to know why the returns of the number of punishments which were called for were

refused. "If," said he, "the flogging which is now inflicted is not one-tenth the amount of that which was inflicted a few years ago, God knows what the state of the army must have been then; and if the punishment has ever been fifty times its present amount, the British army must have been in a melancholy state indeed."

From the alleged fact, that the number of lashes inflicted in the army had been greatly reduced, the majority seemed to wish it to be inferred that the power of inflicting this mode of punishment should be continued, while the minority concluded, from the same circumstance, that it was neither necessary nor expedient to grant such an authority.

19th June.—Mr. Hunt moved "that an address be presented to His Majesty praying that he will be graciously pleased to take such measures as may cause the punishment of flogging in the army to be suspended till after the meeting of next session of Parliament," which was lost by a majority of 37 to 15. During the discussion upon this motion, Sir John Hobhouse stated that the number of lashes that can be inflicted by regimental courts-martial had been reduced in the Articles of War from 300 to 200, and that by district courts-martial from 500 to 300.

24th June.—Mr. Hunt moved for returns of corporal punishments in the British army for a period of seven years, which was agreed to by the Secretary at War. The returns of punishments in the army from 1831 to 1838 have been published.

A.D. 1833 (2nd April.)—Mr. Hume moved "that it shall not be lawful to inflict corporal punishment by flogging on any private soldier within the United Kingdom, save and except for the offences of mutiny, or being drunk on guard, or for theft," which motion was lost by a majority of 151 to 140.

During this year the following Order was issued by the General Commanding-in-Chief:—

SIR,

Horse Guards, 24th August, 1833.

His Majesty's Government having signified to the General Commanding-in-Chief the King's command that, until further orders, corporal punishment may be applied to the following offences only, I have the honour to express Lord Hill's desire that you guide yourself accordingly, taking care that, except in the instances herein specified, the said punishment shall on no account be inflicted. First. For mutiny, insubordination, and violence, or using or offering violence to superior officers. Secondly. Drunkenness on duty. Thirdly. Sale of, or making away with, arms, ammunition, accoutrements, or necessaries, stealing from comrades, or other disgraceful conduct. It will doubtless occur to you that the object of these instructions is not to render the infliction of punishment for the future more frequent, or more certain

than it is at present, even in the cases to which it is now to be restricted, but, on the contrary, that the intention is to restrain it as much as may be possible to do with safety to the discipline of the army.

Previously to the issuing of this Order there was scarcely an offence committed by a soldier which did not subject him to corporal punishment, at the discretion of the court-martial by which he was tried.

A.D. 1834 (14th March).—The order of the day being read in the House of Commons for receiving the report on the Mutiny Bill, on the question that the report be received, Major Fancourt proposed the introduction of “a clause for the abolition of military flogging.” This motion excited a long and interesting discussion, but was lost by a majority of 227 to 94. Major Fancourt represented that the Order lately issued from the Horse Guards, bearing date 24th August, 1833, in compliance with a pledge given by Mr. Ellice, Secretary at War, leaves the matter much in the same state as that in which it originally stood. The terms “Insubordination and other disgraceful conduct” are so comprehensive, that they may be construed to embrace almost every variety of alleged delinquency.

Sir John Byng strongly opposed the motion. “If,” said he, “the abolition of this punishment is to take place, let it emanate from the proper quarter, and do not make it a matter of frequent discussion here, for in my opinion the less the question is agitated in this House, the better it will be for the discipline of the army.”

[When Mr. Drakard was tried in 1811 for a seditious libel, having made some remarks in his newspaper respecting the punishing of soldiers, Judge Wood said, “The House of Parliament is the proper place for the discussion of subjects of this nature; there it should appear.”]

Lord Dudley Stuart expressed his sentiments respecting corporal punishment in the following terms:—“No man,” said he, “can have a greater abhorrence than I have, of the inhuman and barbarous practice of flogging—no man can desire more ardently than myself to see that shocking custom abolished—no man can long more than I do to see that stain removed from the character of our nation; and no man can entertain a more sincere conviction, that, notwithstanding the assurances now received from military men relative to the necessity of preserving this punishment, some substitute might be devised. I cannot join the gallant General opposite in deprecating the agitation of this question. When I

look back to the small divisions who formerly enrolled their names against military flogging—when I look to the defence of the system which is now put forth, namely, that the practice has materially diminished, to such an extent indeed, that by comparison it can hardly be said to exist at present, I feel that so desirable a result can be attributed to nothing but the fact of the subject being agitated and re-agitated by the perseverance of a spirited minority. I think it is a subject which ought to be unceasingly agitated, because I am sure that the effect must be to improve the situation of the army, and to prevent this severity being exercised in future to the full extent to which it now exists."

The subject of military flogging was again discussed on July 21st, 28th, and August 8th, on the presentation of petitions against corporal punishment. On the 21st July, the Secretary at War, Mr. Ellice, announced his intention to submit the subject to the investigation of a military commission. "The whole subject," said he, "has arrived at a stage at which it cannot rest, and it has been my intention to recommend His Majesty to issue a commission, composed of persons competent to take the consideration of all the circumstances connected with our military code; to enquire into the state of that code and into the state of the codes of other countries; and to collect together a body of information on which the whole system may be revised."

The arguments adduced in favour of corporal punishments, by military officers in Parliament, were alleged to bear a close affinity to those with which a Spanish Inquisitor once endeavoured to justify the system pursued by that tribunal.

Do not imagine (said he) that we take pleasure in witnessing *auto da fés*. Oh no, it is by far the most painful part of our duty. But where is our substitute for this mode of punishment? How can ecclesiastical discipline be carried on without it? Such exhibitions should unquestionably be reserved for grave and gross delinquencies, but this may surely be left to the humanity and discretion of a tribunal whose members would never think of shedding human blood. Gentlemen, who are not themselves versed in the department over which they preside, are not competent judges as to the expediency of leaving the power in our hands, without which it would be altogether impracticable to maintain due subordination, and anarchy and confusion would infallibly prevail.

By a Warrant which was issued 7th February, 1833, the pensions to which soldiers became entitled in consequence of disabilities and long servitude, were reduced much below the rates of pensions granted by the Warrant of 1829. By this a powerful incentive

to satisfaction with the service, and to good conduct, was in a great measure removed. The policy of holding out a hope of distinction and reward as a stimulus to praiseworthy and meritorious conduct appears, in this instance, to have been greatly overlooked.

If (says Major Macnamara) a system of encouragement and reward had been made to go hand in hand with one of coercion, and the young soldier had been in the first place properly schooled, not only in his duties, but in the advantages he would derive from the strict and regular performance of them—if he had been mildly and gently treated, his views and his better qualities fostered and encouraged—in short, if he had been dealt with as a reasonable being, instead of as “a mere brute upon two legs,” we in our own conscience believe, that the “cat-o’-nine-tails” would be as little known to the generality of our readers, as “iron hooks” or thumb screws.

During the month of March 1835, the Royal Commission, which had been promised by Mr. Ellice, the Secretary at War, was appointed, the members being Lord Wharncliffe, Lieutenant-General Sir James Kempt, Lord Sandon, Sir Edward Hyde East, Baronet; Robert Cutlar Fergusson, Lieutenant-General Sir Edward Barnes, and Major-General Sir Thomas Reynell, Baronet.

The specific object of the Commission was to examine “whether, after a careful reference to all the circumstances and conditions under which the British army is constituted and governed, and all the services which it is called upon to perform, it may be practicable to dispense with the power of inflicting corporal punishment, or to make any other changes or modifications in the punishments now applicable to offences committed by the soldier, without detriment or danger to the paramount consideration of maintaining strict discipline, and effectually repressing crime, in the ranks of the British army, throughout all the various contingencies of military service to which our troops are necessarily liable.”

It appears to be assumed by the foregoing query, not only that corporal infliction is efficacious, but that it is adequate to maintain discipline, and to repress crime, in the ranks of the British army throughout all the various contingencies of military service. Now it is difficult either to prove or to disprove this assumption; but judging from the practice of the army, we may conclude that Commanding Officers believed, or found, that a very large amount of corporal punishment was required to repress military offences, and consequently we may presume that it was by no means a very effectual specific. “After an experience of one-and-thirty years’ service,” says Major Macpherson, 99th Foot, “during the early part of which period I witnessed much military flogging, I have

no hesitation in saying that I never knew a single instance of a bad character being reformed by it. I beg to express my firm belief that any mode of punishment is better than corporal punishment." —(*Appendix to Report on Military Punishments*, p. 117.)

Many experienced officers have expressed their belief that in ninety-nine cases out of a hundred, a flogged soldier becomes a burden to himself, a pest to his comrades, and a disgrace to the corps to which he belongs. Other able old officers maintain that flogging is a practice not only unnecessary, but one that creates disgust and abhorrence in the breast of every soldier who is called upon to witness it: the spectacle altogether, instead of operating as a warning, has a hurtful effect, by inducing men to dislike, and to be dissatisfied with, the service. "The first man I saw punished," says Bombadier Alexander, "my heart was like to burst; it was with difficulty I could restrain my tears; indeed, my spirits sunk from that day." But many a strong and crime-hardened man cannot witness a punishment without emotion: and when some of the boldest men in a regiment faint, actually drop senseless in the ranks, what effect must such a scene sometimes have upon youths, fresh from the parental fireside, and raw from the village school? Obviously to render them dissatisfied with the service.

According to the Report from the Royal Commissioners, it appears that officers of all ranks, who gave evidence on the subject under investigation, spoke of flogging as an evil rendered necessary by the description of recruits received into the service, and the prevailing habits of soldiers, but more especially by the vice of drunkenness to which they are liable; in other words, by the ignorance and thoughtless intemperance of soldiers. But admitting that lack of knowledge, and ineptitude, are the parents of most military crimes, it may be asked, will flogging instruct the ignorant, and reform the intemperate, more effectually than other means which may be devised and adopted? Flogging, in the opinion of not a few excellent officers, will neither inform nor reform. The lash is a most unsuitable remedy for drunkenness by which at times many a high-spirited and gallant soldier has been overtaken.

With respect to the effects of the punishment of flogging, I shall quote the opinion of an experienced officer, of thirty years' standing in the army, on this important subject—an officer who rose from the ranks, and from his meritorious conduct was promoted to the rank of Lieutenant. "'The man who is flogged,'" says he, "feels himself dishonoured and degraded; and reflecting

on his debasement, obduracy takes the place of obedience, hatred that of love, apathy of unwillingness, and discontent deprives him for ever of that happiness which surely ought to be the lot of him who voluntarily leaves his home and the dearest ties of nature, to cast his mite into the lap of his country's glory. The nobler feelings are usurped by those of hardihood and callous nature, and the mind feeds on its debasement, and lingers on its own dishonour. There will be found in such a man a sullen, restless, fretful, and irritable disposition, ever alive to malice and revenge : he becomes a discontented, grumbling, and disobedient soldier, who feels that he has nothing further to lose or to care for. Thus he lives, time is but a tell-tale of his woes, and at last in the cup of ineptitude he seeks refuge from the storm, or, as he would term it, drowns his cares and his sorrows. Repetition of his crime ensues, and further punishment is the sure consequence."

Flogging, and many of our legal punishments, appear more likely to harden than to reform an offender, not only by their inequality in proportion to the degrees of delinquency, but still more by their publicity. By public exposure the perpetrator of a crime is induced to endeavour to acquire hardness, that he may destroy shame, and brave disgrace, to retrieve reputation being now almost impracticable. He feels himself disregarded by society, and he disregards it, nor does he longer feel an interest where he receives no social gratification ; and whether it be a public whipping or the public hulks, he loses shame and remorse, and acquires the passions of revenge and cruelty, and a habitual profligacy of conduct. Punishments which awaken the angry feelings of a perverted mind, rather do harm than good. Without contrition, punishment at best only deters from crime : it produces no moral reformation.

"To this mode of punishment (flogging) I have," says Sir Neil Douglas, "been a great enemy, having found from long experience that it is hopeless to expect any good results from its infliction, either as a *warning to good men to avoid evil courses, or as a punishment to bad ones* for the actual commission of crime. I therefore gave much attention to the subject, and came to the conclusion, after mature reflection, that under the existing system of military law of England, my only chance of abating it, was by stimulating men's minds by holding out other great advantages for good and regular behaviour, and thus making it their interest to conduct themselves with propriety." For this purpose Sir Neil established a regimental order of merit in the corps he

commanded, the 79th Regiment of Highlanders, "which," he says, "tended more than any measure I ever knew or heard of, to encourage good conduct, and to repress vice and immorality of every description." Sir Neil Douglas commanded the 79th Regiment for upwards of twenty-two years.

The Royal Commissioners concluded their Report in the following terms :—

There now only remains for us to submit to your Majesty the conclusions which, in our judgment, are the result of the whole evidence.

1. That it is the opinion of almost every witness whom we have examined, that the substitution of other punishments for corporal punishment in the British army, upon actual service and in the field, is impracticable, and, if practicable, would be insufficient for the maintenance of proper discipline.

The witnesses who gave evidence before the Royal Commission in regard to punishments in the British army, were chiefly General Officers and officers who were in command of regiments and depôts, or non-commissioned officers and soldiers still serving in the army. With respect to the Commissioners, it may be observed that the military members, perhaps the most influential, had, during their long service, been employed in administering those laws and usages of the army, which, in as far as regarded punishments, they were directed to investigate. It is a common principle in human nature for men to be blind to the defects of a system which they have long been employed to carry into effect, and to regard every change that may be suggested as fraught with highly dangerous consequences. It is curious to observe how slowly and reluctantly men are induced to act practically, and upon conclusions of which their understanding has been convinced, when *habit* and prejudice are opposed to them.

2. That the abolition of the power of awarding corporal punishment, by sentence of court-martial, in the British islands and the colonies, and during peace, and the retention of the power of inflicting that punishment when the army is on service and in the field, appears to us, for the reasons we have stated, manifestly unjust.

The principle in question, however, has, I believe, been commonly more or less acted upon, a higher ratio of punishments being inflicted "on service and in the field," than in the British islands and the colonies.

3. That it does not appear to us that the punishments which have been resorted to as substitutes have hitherto had such an effect as to render it safe to abolish altogether that power in Great Britain or

the colonies, nor have any other punishments been suggested to us that appear to promise a more favourable result.

The number of men sentenced to be flogged by courts-martial since the Peace in 1815, has been gradually reduced, the annual ratio of corporal inflictions having declined from seventy or eighty to ten per 1000, without any falling off in the discipline or efficiency of the army. Indeed, it appears, from good authority, that discipline has improved as flogging has been diminished, 200 lashes having been found to be more effectual as an example than 1000, because the lesser punishment is less revolting. Experience has proved that military laws may be invigorated, and rendered more efficacious in repressing delinquencies and sustaining discipline, by rendering them more lenient and more accordant with popular feeling.

4. That it appears to us that, even supposing that some effectual substitute might be devised, or that those now in use might be made more effectual, so as to render corporal punishment ultimately unnecessary, it would be unsafe to proceed at once to abolish it entirely, and that, even in that case, its abolition should be gradual.

Let the various secondary or minor punishments, together with the requisite rewards for good conduct and long service, be effectually put in force, and allow the lash to fall into disuse, in the same manner as other barbarous punishments have become obsolete. By this means I have no doubt that, in a very short time, a court-martial would with equal reluctance sentence a man to endure the punishment of the *strappado*, as award to him an infliction with the cat-o'-nine-tails.

5. That, in order to give full effect to the punishments now in use as substitutes for corporal punishment, considerable alterations must be made in the means of rendering solitary confinement in the several barracks more effective; and that a certain number of prisons, exclusively for military offenders, should be provided as soon as possible.

6. That although we have been *unwillingly convinced* of the necessity of still retaining the power of corporal punishment, and in proportion to our conviction of that necessity, we earnestly recommend that no pains may be spared to endeavour to make its infliction less frequent.

It is commonly easy enough to convince us that the measures which we have long authorised and sanctioned are wise, and proper, and necessary; but it is very difficult to persuade us that our opinions are ill-founded, and our conclusions and conduct wrong. Convictions against our former practices seldom take deep root. Mankind do not generally resist the force of habit.

Persuade the folk against their will,  
They're of the same opinion still.

It is often long before the dictates of humanity and justice prompt military legislators, and every Commanding Officer is a military legislator, to relieve an inferior order from an evil the pressure of which is not experienced by themselves.

7. That with the view of diminishing the frequency of this punishment, the offences to which it is limited, and the occasions upon which it should be resorted to, should be more clearly defined.

The purport of the recommendation contained in this conclusion, had, to a certain degree, been attempted to be carried into effect by the Circular Letter from the Horse Guards, dated 24th August, 1833.

8. That, with the same view, more discretion should be vested in Commanding Officers, as to the power of making use of minor punishments, and in determining on the offences which shall, under their orders, be tried by a regimental court-martial.

This conclusion has, I believe, met with the universal approbation of Commanding Officers. Power and superiority are so flattering and delightful, that even those who have most reverence for the laws of right are pleased with shewing that not fear, but choice, regulates their behaviour. "Pride is unwilling," says Dr. Johnson, "to believe the necessity of assigning any other reason than her own will, and would rather maintain the most equitable claim by violence and penalties, than descend from the dignity of command to dispute and expostulation."

An anonymous correspondent in the *United Service Journal* suggests that the discretion recommended to be vested in Commanding Officers should authorise them—

To confine a soldier for a week in the black-hole.

To lay a man in irons for three days.

To stop pay for days of absence, including the other usual punishments.

To revert to the use of the log under certain circumstances.

To authorise the use of the stocks.

To sanction regimental courts-martial to try all cases of delinquency, except such offences as come to a question of transportation or death.

Were Commanding Officers to cease to be swayed by their passions and prejudices, like other mortals, then might they be safely entrusted with considerable power without responsibility, but not till then. The author of a temperate communication upon the subject of military punishment, in the *Naval and Military Gazette*, observes, that to "invest Commanding Officers and Captains with increased powers, would be a measure of very questionable expediency; for unless Commanding Officers and Captains were more perfect in their natures than they really are, or are ever

likely to be, increasing their power might make a soldier a more submissive instrument, but it would retard his advancement in the way it is desirable to elevate his character, and he would become a mere animal, devoid of feeling.

9. That it appears to us that the extent of the sentences in the power of the several descriptions of courts-martial to award, may, without danger, be more limited than at present.

Let it be recollected that the award of a district court-martial was at this time limited to 300 lashes, and a regimental court-martial to 200. What an improvement since 1812!!

10. That encouragement should be given, in the way of honorary reward and distinction, both to the gallant and well-conducted soldier.

An honorary reward, in addition to the means of comfortably sustaining life, is a valuable distinction; but without the requisite means of decent existence, what is it but an empty bauble? I should never wish to see a mendicant, or an indigent old soldier, wearing a medal.

11. That no consideration of expense, within reasonable bounds, should be allowed to stand in the way of attending to the comforts of the soldier while in the service, and of a sufficient pension for the good and deserving man after that service has been performed.

This conclusion embraces the whole economy of a soldier's life, much of which does not come within my plan to discuss. I may here observe, however, that the term "sufficient pension" bears very different meanings, according to the practical experience, liberality, and disposition of individuals. For example, the Honourable A. F. Tytler, in his *Essay on Military Law*, admits that the "sacrifice of a greater portion of the personal liberty of individuals is more necessary in the profession of a soldier than in any of the employments of civil life;" but "when it is considered," says he, "that these *trivial restraints* are most amply compensated by the wise, humane, and *bountiful provisions* that are made for the soldier after he is released with honour from the fatigues of his profession, and by the immunities and privileges he enjoys in that title above all others of his fellow-subjects," no man possessing a well-constituted mind will complain. Now, the bountiful provision, immunities, and privileges to which discharged soldiers had a claim when Mr. Tytler wrote, was 5*d.* a day, when a man was worn out in the service, and permission to earn a livelihood wherever he could find employment. To apply the term bountiful provision to so small a pittance, after twenty-

five or thirty years' service, appears to be mere mockery. Let the army be made a desirable profession, so as to induce soldiers in general to be satisfied with it, and let officers conduct themselves towards their subordinates so as to deserve their love and respect, and I feel confident that in ordinary circumstances, I mean during peace, very little punishment will be required. For this purpose let soldiers, in the first place, be enlisted for a specified period, or what would, perhaps, be better, let them have it in their power to claim their discharge after a certain period of servitude. Let them have a prospect of an adequate allowance for their sustenance should they serve twenty-one or more years. Study their comforts,—rule them with kindness,—have some confidence in their honesty,—and whatever punishment may be required by some individuals to preserve discipline, will meet with the approval of a great majority of the corps, and consequently be in all probability beneficial. When a man has enlisted for life, or as an Irishman would say, "*has soul'd his wind*," and surrendered his independence for life, what encouragement can he have to cultivate his mind, and what hope is he warranted in entertaining to be able to better his prospects? He has no hope, and without hope and self-respect there is little virtue. It may be said, that "neither emancipation nor advancement stimulate and reward good conduct, while the smallest delinquencies are visited by punishments determined by an arbitrary system of laws, and too often inflicted with the most injudicious severity." Military discipline exacts a complete abrogation of the moral judgment, a conversion of the man into an intelligent machine, without compensating him for the surrender of his independence by a due provision for his physical comfort, as is done in some of the other more avowed forms of bondage.

In 1836, the award of a general court-martial was limited by the Articles of War to 200 lashes, a district court-martial to 150, and a regimental court-martial to 100. No further restriction in regard to the amount of corporal punishment has since been ordered. It must seem strange to persons who do not observe the extreme difficulty with which old-established customs and prejudices, however ill-founded, are subverted, that the practice of awarding excessively large sentences of corporal punishment for trivial offences, and for every offence, second punishments, &c., should so long and so obstinately have withstood the most convincing arguments and the most conclusive statistical evidence. It is hard to say how far a man may be carried by the influence of

bad example, and by the practice of a vile custom, when we see that men, otherwise humane, may become the champions of a system so revolting to a feeling mind, and so liable to abuse, as flogging.

A.D. 1842 (15th April).—On the order for the third reading of the Mutiny Bill in the House of Commons being read, Captain Bernal proposed a clause to prohibit flogging in the army during peace, except on a march, or for theft, which motion was lost by a majority of 187 to 59. Captain Bernal took a review of the circumstances under which corporal punishment had been inflicted in former times, and the frightful extent to which it had been carried, compared with the circumscribed application of the same punishment at present, which, in his opinion, was a strong proof that public opinion was decidedly in favour of its ultimate abolition. He believed all parties were agreed as to the degrading and brutal nature of the punishment, and it was high time that the House should turn its attention to the substitution of a system of rewards, and to the moral improvement of the condition of the soldier. He trusted he should have the support of Captain Boldero, now a member of the Government, who, before his accession to office, had been a steady foe to this description of punishment.

Captain Boldero admitted that he had on former occasions advocated the appointment of Committees to enquire into the subject, with a view to doing away with corporal punishment. He intended, however, to vote against the present motion; he had, he said, changed his opinion on the subject. Mr. Macaulay took occasion to remind him that in 1838 he had used the following words upon moving for a select committee:—“*I call upon the House to put an end to this barbarous and brutal torture. \* \* The British soldier may be governed by more ennobling influences than those of terror.*”

Sir Howard Douglas objected to the motion, although he admitted that corporal punishment had been carried to “*a frightful extent in former times; and he shuddered when he recollects the scenes which it had been his lot to witness.*”

Mr. Stanley was convinced that if the flogging took place in the sight of the public, the practice would not be suffered to continue one day. In his opinion, much good had been done by discussion; for if the matter had been left in the hands of military men, flogging would have been continued to this hour in full force.

Military men, as was observed by Captain Bernal, were for the

most part averse to the abolition of the practice of flogging; but it may be observed, that the members of all professions are commonly wedded to received forms of discipline. It was admitted by every Member who took part in the discussion, that the punishment was a brutal and disgusting one, but at the same time the general opinion was, that it was necessary in extreme cases for the sake of discipline. This is, perhaps, true, as the army is at present constituted.

During the discussion it was observed by Lord A. Lennox, that at this moment there were four Colonels in the British army, who, when they were privates, underwent corporal punishment. The severity of the British military code, or rather, perhaps, the interpretation given to it, and acted upon during the war, was excessively rigorous. "It was, moreover, so contrived, or so construed, that the most perfect character that ever existed (being a soldier) could be brought to the halberts whenever it suited the pleasure of his *superiors*." Good and efficient soldiers were often punished for some trifling breach of military rule, who, notwithstanding their having been ignominiously punished, conducted themselves so as to gain the approbation of their superiors, and by that means obtained commissions in the army. They remained good soldiers in spite of the degrading infliction which they had suffered. Commissioned Officers who have been flogged are generally silent on the circumstance, but sometimes the fact becomes known by accident.

The most talented, best informed, and most trustworthy men of a corps frequently take a dislike to the service, and sometimes commit a breach of the contract they entered into at enlistment, and desert, for which they are liable to punishment. A man belonging to — Regiment deserted twice while he held the rank of Sergeant, and such was the excellence of his moral character, talents, and conduct, that he obtained a commission in the same corps from which he had deserted. The late Paymaster of — Regiment, and a most influential man in it, deserted when a private, and was, I believe, punished; but, notwithstanding this delinquency, he was subsequently promoted to the rank of Quarter-Master, and finally to that of Paymaster.

The true way to reform the discipline of the army (says a contemporary Journalist) is to begin by improving its character. Inadequate rewards engender, and, as a matter of temporary policy, justify harsh punishments; and when we look to the condition of the soldier, his hopelessness of promotion, and the unlimited term for which he is bound to serve, can we wonder if cases of recklessness and insubordination

are frequent, and stern punishments essential to the maintenance of discipline? Young men are generally entrapped into the army under the excitement of drinking, or in consequence of abandoned and absolute habits. Patriotism, thirst for distinction, all the more generous impulses which should actuate the soldier, are mocking words in the mouth of a British recruiting Sergeant; and, accordingly, the latter is too often compelled only to seek for success among the ignorant, the degraded, and the reckless. In an army thus constituted, the necessity inevitably arises for stringent regulations, and the establishment of a rule of terror. Strict discipline is the first requisite and main source of strength in a military force, and if higher motives are shut out from the soldier, it must be attained through his fears, even at some cost to humanity. While, therefore, in deference to military authorities, who, with a few exceptions, concur in upholding the practice, we would not argue for the immediate abolition of flogging, we yet hold that the necessity which exists for it affords indubitable proof that our army is placed upon a false basis, and that the soldier is cruelly wronged by being attached to the service by force and terror, rather than interest and ambition. The State first deprives him of the ordinary motive to good conduct, and then declares, and probably with truth, that corporal punishment is necessary to ensure obedience!

When the delinquencies on a march are numerous, flogging is a very inconvenient punishment, and, in consequence of its unsuitableness, offenders are apt to escape with impunity.

Sir Charles Napier, in his treatise *On Military Law*, which was published in 1837, has fully examined the subject of flogging; and as his military experience has been not only long but greatly varied, his sentiments and conclusions deserve the highest consideration; more especially as he is not one of those alleged "clamorous civilians who under the cloak of philanthropy, but in reality to court popularity, have the folly and impertinence to discuss a subject of which they cannot possibly have the least knowledge." Sir Charles enumerates eight specific objections which he has to the punishment of flogging. They are as follows:—

My objections to flogging are—First. That it is torture.

The word *torture* is probably here used in the same sense as inhumanity, more pain being inflicted than is necessary.

All torture (says Sir Charles) is objectionable, and therefore should be avoided, when to avoid it is possible; it savours too strongly of vengeance, which is not the object of law. Torture is worse than death to many who suffer it; to some it is both agonizing and fatal; yet no crime can demand from mortal judges a greater punishment than death; so that he whose crime at most only merits a moderate share of pain, may suffer a greater punishment than is established for

the monster whose fell deeds seem to merit death in this world, and to court damnation in the next.

In fact, when a judge condemns a culprit to the torture, he may be said to put so many sentences into a bag, and draw out one by chance ; for when he orders the application of torture, he knows not what he inflicts.

Secondly. That it is torture of a very unequal infliction.

Officers who have seen much flogging know well that drummers frequently appear to exercise some discretion, and in all probability do so, in regard to the severity of corporal infliction. They commonly flog a thief, or any man who has what is called disgraced the corps, with excessive severity.

Drummers (says General Napier) can so flog a man, that he could receive 1000 lashes, and it is probable they could kill a strong man with 500.

Thirdly. Because it is an unequal punishment; some men being able to bear a much larger infliction than others.

In practice, a soldier sentenced to what was at the time considered a very moderate punishment, such as 300 lashes, frequently suffered a much heavier infliction than one who was sentenced to receive 800 or 1000. The man who was awarded 300 lashes might be able to bear the whole number, while the man sentenced to 800, might not be able to receive twenty-five. This circumstance, I believe, accounts for the great difference of the amount inflicted for the same class of crimes, as appears by the return of corporal punishments inflicted in the colonies and possessions of Great Britain, prepared in pursuance of an Order of the House of Commons, dated 22nd April, 1839. For example, under the class, "disobedience," the greatest number of lashes inflicted upon one individual was 500, while the lowest number was fifteen ; and under the head, "violence to superiors and insubordination," the greatest number was 800, while the lowest was twenty-five. The sentences awarded might be nearly equal in amount, being graduated according to a scale of punishments in relation to the crimes ; but the capacity of individuals to endure the infliction is beyond the power of a court to foresee or to estimate.

Fourthly. Because the severity of the infliction is in some measure in the option, or according to the strength, of the drummers employed, and also according to the temper of the Commanding Officer and Drum-Major.

Fifthly. Because the state of a man's health, and the ability of a man to endure severe corporal infliction, cannot be always correctly ascertained.

This is a most important objection, and one which has a particular reference to the duty of a medical officer. A medical officer of the greatest experience is unable to predict with certainty the effect of a severe, or even a moderate flogging, upon the future health of a man—either upon his general constitution, or locally upon his back. He may be attacked with fever, which may terminate in death; or inflammation and sloughing of the back may supervene, and be followed by a similar result. It is not to be expected that young or inexperienced medical officers should be acquainted with their duties on a punishment parade,—more especially as no official instructions have been promulgated on that head. A medical officer ought to be informed in regard to what is required of him in the performance of this duty, and how he should execute it. Sir Charles Napier states that he knew of two soldiers who were flogged at Corfu, by sentence of a court-martial in 1819; both died, and neither had been punished with unusual severity. When an enquiry was made by Sir Thomas Maitland into the cause of their death, it was alleged that both of them had the "*malaria*" fever before they were punished, although neither they nor the medical officer who attended the punishment were aware of the circumstance. This allegation, or conjecture,—for it was only a conjecture,—served the purpose of shielding the Commanding Officer and surgeon from the consequences of any imputation of blame, in regard to the manner of carrying the sentence into effect. It is sufficiently well known that fever is frequently excited by injuries, such as the fracture of a bone, or a surgical operation, and it may also be caused by the contusions occasioned by a cat-o'-nine-tails. There is much truth in what Sir Charles Napier says on the subject. "As to pulse," says he, "it forms no criterion by which a medical officer may ascertain the state of a man's health; for what man's pulse would be regular when going to suffer, or when actually suffering torture?" I believe every possible care is in general now taken by medical officers, to ascertain the state of a man's health previous to his being flogged; but medical men cannot do what is impossible,—and it is impossible to say what may be the effect of corporal infliction with more certainty than to predict the consequence of a surgical operation. The most experienced

surgeons can only guess ; the result is, that when a man is tied up to be flogged, his life depends upon a guess, and that guess, perhaps, made by a young and inexperienced officer.

Sixthly. Because the danger to life from flogging is greater in a tropical than in a temperate climate.

The ratio of sickness in a tropical climate is more than double that of troops in a temperate climate ; while the mean ratio of mortality in the former may be estimated at from four to six times that of the latter. Every cause of ill health, including the contusion excited by flogging, is of more importance in a warm than in a cold climate. Fever is more easily excited between the tropics than where the temperature is low.

The fact is, (says Sir Charles Napier,) that the medical officers are placed in a most unfair and perilous position. The danger to which the life of the culprit and the *life of the surgeon* are exposed, appears to be a powerful objection to this punishment. As to making the surgeon responsible, it is unjust to do so : the law places a man *by force* in a certain position, and orders him to act according to the best of his judgment ; he does so, and there is an end of the matter, whatever may be the consequences, unless it can be shewn that he was drunk or mad !

Seventhly. Because "the punishment of flogging is not only an unequal infliction for the above reasons, namely, that for similar offences it is applied by unequal force, in unequal quantities, and by unequal wills, to unequal powers of endurance,—but also because the first punishment is the most cruel."

Eighthly. Because the lash brands the sufferer with indelible marks.

An indelible mark of misconduct is a fearful punishment. In Ceylon, female delinquents were at one time punished by cutting the hair close to the head ; but this mutilation, or perennial mark of disgrace, was found to be so extremely severe a chastisement, that it was eventually abolished. Cutting the hair was not only a greater, but infinitely more lasting infamy, than to whip a delinquent at the cart's tail, or even to burn her on the hand, as she had to conceal herself nearly for life from the eye of the public. A similar opinion prevails in the East with respect to shaving the beard.—(2 Sam. x., 4.) The spirit of a good man must be in a great measure broken when he receives the brand of disgrace. As a sample of the evil consequences of thus branding a soldier, Sir Charles Napier supposes a case. A young man enlists, and commits some crime of a military, but not of a moral nature. He is tried, sentenced, and flogged. He is transferred to another corps, or, perhaps, none but himself are

left in the corps in which he served when he was flogged ; some circumstance, such as sickness, bathing, or the like, makes him strip,—the traces of punishment are seen, and there are none to vouch for the fact, that no vile deed, such as robbery, has been the cause of his punishment. He becomes a *suspected character*, and consequently is, in proportion to his high sense of honour, miserable. Unable to endure his feelings, if not a man of extraordinary firmness, he grows desperate and deserts,—is caught, and either again flogged or shot, and there is an end of him ! But we may suppose another case. We may suppose that the man has been idle and drunken, though not really bad, but the reverse—a fine character—and that a flogging has made him a better man, which is sometimes, but not very often the case ;—his crime has been punished—reform has followed, and all the superiority of his nature shines forth ;—yet he of whose reformed conduct God and man approve, and who becomes the admiration of his companions, is *branded like a felon*.

But, (says Sir Charles,) is flogging effectual ? That it is effectual when inflicted in a degree suited to the crime, there is in my mind no doubt ; but I am equally persuaded, that when inflicted in the outrageous degree that it has hitherto been inflicted, it does harm ; and I think it good that I should endeavour to prove this to the public, because many able professional men have maintained, and do yet maintain, that the diminution of the number of lashes is an evil. Professional men frequently grow so accustomed to the evils of their profession, that they lose that impartiality of judgment, in such matters, which is necessary to see the extent of these evils, and, what is worse, these men grow to believe such evils necessary, and even that they are no evils at all.

The most remarkable instance of the perversion of judgment in human suffering which I have met with, is the following :—

When the Protestant Bishops had resolved to put Joan Boucher (the Anabaptist of Kent, who suffered in the reign of Edward VI.) to death, a friend of Mr. John Rogers came to him, earnestly entreating him to use his interest with the Archbishop, that the poor woman's life might be spared, and other means used to prevent the spreading of her opinions, urging too, that though while she lived she infected few with her opinions, yet she might bring many to think well of them by suffering for them ; he therefore pleaded, that it was much better she should be kept in some prison, where she had no opportunity of propagating her notions among weak people, and thus she would be precluded from injuring others, while she might live to change her mind. Rogers, on the other hand, pleaded that she ought to be put to death. “ Well then,” (said his friend,) “ if you are resolved to put an end to both her life and her opinions, choose some other kind of death (than burning) more consonant to the gentleness and mercy prescribed in

the Gospel, there being no need that such tormenting deaths should be resorted to, in imitation of the Papists." Rogers answered, that "*burning alive was not a cruel death, but easy enough!*" On hearing these words, which expressed so little regard to the poor creature's sufferings, his friend replied, with great vehemence, at the same time striking Rogers' hand, which before he had held fast, "Well, perhaps it may so happen that you yourselves will one day have your hands full of this *mild burning*." The above story derives a singular interest from the subsequent fate of Rogers: he was the first of the long array of the martyrs of the persecution which took place under Mary, and was led to the stake at Smithfield, on the 4th February, 1555.—(*Pictorial History of England*, vol. ii., p. 735.)

Had not the diminution of flogging (says Sir Charles) been insisted upon by the public—had the question rested wholly with military men, I do not believe that the powers of courts-martial would have been restricted as they now are.

Human sufferings are never beheld for the first time except with aversion, terror, and disgust; but these feelings become soon blunted, by frequent repetition; and, for good and wise purposes, no doubt, certain feelings are implanted in our nature, which render many individuals insuperably averse to change; improvements are consequently resisted, and professional practices and abuses defended; innovation is dreaded and denounced; persons who venture to suggest amelioration of extremely severe, and consequently ineffectual punishments, must expect to be branded and stigmatized as "destructives" and "disorganizers," or sneered at as "liberals" and "philanthropists." The alleged motives of persons who have advocated a mitigation of corporal punishment in the army, have been "traced to an active and persevering desire to innovate upon the customs of the country, and to establish a corrupt popularity with the unthinking part of the community, if not to sap the discipline of the army, and thereby to remove the last bar to the introduction of democracy and its consequences—anarchy and devastation." Sentiments of this kind defeat their object, for no thinking person will believe that "anarchy and devastation" are averted in this country by the infliction of severe and of frequent punishments in the army. A punishment, to be effectual, must somewhat humble the delinquent, and give him some degree of pain; but if the law effect these objects with a moderate penalty, and without ignominy, reformation may be expected with much more confidence than when the punishment has been severe and degrading.

I am aware that many military officers do not consider the punishment of flogging a degrading infliction, if applied in the

case of a military offence, leaving it to be inferred, that when a man is punished for an immoral delinquency, he is consequently disgraced. Whipping is an ignominious punishment in civil life; and I have no reason to believe that British soldiers are so destitute of every feeling of shame, so bereft of the feelings of men, as to regard the infamous part of corporal infliction with indifference.

A competent judge of the general feelings of soldiers—an officer who rose from the ranks—asserts, that, notwithstanding all that has been advanced by persons of a different opinion, he thinks that the illiterate and ignorant are very sensitive of oppression and wrong:—

I hesitate not to say, (adds he,) more susceptible than those who are better informed. The capacities of the former will not permit them to view the punishment under which they suffer, in connexion with the cause by which it is produced. They are only sensible of the cruelty of the effect, and thus irritated by the infliction of a supposed wrong, reason is subdued by the impulse of the moment, and they consider themselves deeply injured when they receive the punishment of offence. I would ask those who argue that the minds of common soldiers are barren and uncultivated, and hence, more callous than those of the more enlightened,—I would ask the advocates for corporal punishment, a few simple questions. Have they served in the ranks, and mixed and lived in social friendship with the private soldiers of our country? Have they ever sat at the bedside of a flogged man, and witnessed the agony of his heart, and the distraction of his mind? Have they ever heard the unintimidated and unbiased opinions of the soldiers in their barrack-rooms, respecting the ignominious lash? If not, they are but half competent judges on this great question. If this great promoter of discipline be so requisite to practice, and so efficient in checking the most turbulent soldiers, how is it that some men who have once been flogged, fall under the lash almost every week afterwards?

The sense of shame is the feeling which should be worked upon, if we expect to prevent bad conduct; and should punishment not excite some degree of shame and humiliation, the infliction, in as far as the delinquent is concerned, had as well be omitted. But the care that is required to be taken, that the reproach of having been flogged shall not be thrown in the face of one soldier by another, implies that the feelings may be painfully excited by this, and that the sense of disgrace arising from the corporal infliction is easily roused, in however latent a state that sentiment may seem to be. Soldiers are, in fact, commonly very tenacious of character, and their honourable feelings in this respect should be carefully cherished. An old soldier is proud of being able to say, “I have served in the army for so many years, without being tried

by a court-martial, or even confined in a guard-room." This expression proves that flogging would have been considered a great degradation, the traces of which a man has no power to obliterate. The Germans, it is said, have a horror of being tied up to receive punishment. "In a German regiment in our service," Sir Robert Wilson informs us, "where punishment was very rare, two men destroyed themselves to avoid this increased disgrace."

There is one circumstance which may be noticed on this subject—that the ignominy which attends the punishment of flogging is greatly modified by the numbers who undergo the infliction. Corporal punishment, if very frequently exercised, may come to be considered as one of the common evils to which military life is incident; and, instead of being looked upon as a disgrace, it may come to be regarded as a simple misfortune, limited to the inconvenience of enduring the pain inflicted.

It is, in my opinion, a libel upon the army, to say that soldiers "are not of that thoughtful reflecting description of men, to think of punishment, beyond the inconvenience occasioned by it." Even when punishments of this kind were frequent, and when the disgrace of the infliction was less than it is now when punishments are rare, men who had undergone the discipline of the lash carefully concealed the circumstance.

"Thank God," said an old soldier to me, one day, "I served in the — Regiment for about fourteen years, and went through the Peninsular War, and was discharged without having been *disgraced* by being confined in a black-hole, except once; and that punishment," said he, "was inflicted in consequence of my wife having slept rather later than usual, by which means the barrack-room was not 'in apple-pie order,' when it was inspected by the Quarter-Master." How much more would the veteran have felt the indignity had he been flogged, instead of being confined, for an offence which the greatest Martinet in the service would not designate as disgraceful. Commissioned Officers, in general, know little or nothing in regard to the feelings of soldiers. Without intimate social intercourse with the men, it is difficult to arrive at any specific conclusion in regard to their opinions respecting punishments. We are certainly not warranted in presuming that soldiers are insensible to shame and moral degradation.

It was a principle with Gustavus Adolphus, that the common soldier should rarely, if ever, receive corporal punishment, being

fully persuaded that such a disgrace cast a damp afterwards upon his vivacity, and did not well agree with the notions which a high spirit ought to entertain of honour. It was his idea, that a man of bravery would sooner forgive a sentence of death inflicted upon him by a court-martial, than incur the scandal of corporal punishment. His general rule, therefore, was to degrade or banish.

Kirckhoff, a medical officer of rank in the army of the King of the Netherlands, entertains a similar opinion:—"Il ne faut point," says he, "soumettre le soldat fautif à des punitions avilissantes. A quoi bon les coups de bâton qu'on donne trop légèrement au soldat, si ce n'est que pour l'abrutir et pour déshonorer le noble état du défenseur de la patrie? Ce genre de punition déshonorant ne devrait être réservé qu'aux lâches et aux traitres; et dès qu'une fois un militaire l'aurait subi, il faudrait l'exclure à jamais d'un ordre auquel les destins d'une nation sont confiés, d'un ordre qui a pour base le courage, l'honneur, et toutes les vertus généreuses."

The soldiers of the French army submitted very unwillingly to corporal infliction, to which they were liable before the Revolution. On one occasion, "Un officier ayant entrepris de haranguer les grenadiers révoltés parcequ'on vouloit frapper un de leurs camarades, et s'étant efforcé de leur persuader que ce châtiment n'avoit rien qui ne fût militaire, un d'eux s'étoit écrié:—'Mon Capitaine, je ne connois de militaire dans le sabre que la pointe et le tranchant.' Le Maréchal, qu'on avoit excité à punir ce propos, avoit répondu, 'Gardez-vous bien de réprimer ce mouvement!—Perisse, s'il le faut, l'ordonnance des coups de plat de sabre, mais conservez l'honneur du soldat Français.'"

Frequent reference is made by the officers who gave evidence before the Commissioners for enquiring into Military Punishments, in regard to the difficulty of getting rid of an alleged "hardened and unmanageable description of men," to which the corporal punishments in every regiment are said to be much confined; and the Royal Commissioners suggest in their Report, that if a measure were adopted by which these "men of confirmed bad habits" might be discharged, they think it would "greatly tend to diminish the frequency of corporal punishment." An opinion prevails very generally in the army that the lashes inflicted by corporal punishment are distributed among a small number of men frequently characterised as being *incorrigible*. But this conclusion does not

appear to be well established, if we infer that incorrigibility in soldiers implies that they have been flogged repeatedly without improvement—the ratio of men belonging to troops of the line, who are usually punished more than once being comparatively small. The subjoined table, compiled from Parliamentary papers, will shew the absolute and relative number of men who were punished more than once in different arms of the military force of this country for certain periods.

Arms of the Military Force.	Period (years in- clusive).	Number Punished.	Punished more than once.	Punished more than once, per cent. of the whole number punished.
Troops of the Line . . . . .	1831-35	1440	213	14.8
Artillery (Home Service) . . . . .	1831-37	141	2	1.4
Marines . . . . .	1831-35	415	83	20.0
Artillery (Home and Abroad) . . . . .	1836-38	112	5	4.4
Marines . . . . .	1836-37	86	10	11.6
Regiments and Depôts at Home . . . . .	1836-37	360	15	4.1

Individuals who may be called unimproveable are not limited to any grade of the service. "In all ranks," says Sir Charles Napier, "we occasionally find men appointed to fill situations for which they are totally unfit—men whom nature never intended to be soldiers, much less to command soldiers." A Commanding Officer may be a well-meaning man, but he may also be "merely a zealous fool, hot after unimportant minutiae, on the exact execution of which he considers the fate of the nation to depend, and in the enforcement of which he most indiscreetly uses his *discretionary powers with a vengeance*." Commanding Officers of this class are ever and anon meeting with individuals of "confirmed bad habits," and by injudicious measures, frequently excite the very delinquencies, the incorrigibility, which they wish to prevent or to remedy. Officers who enforce obedience without teaching it, or who adopt measures of coercion without having endeavoured to inspire self-restraint or self-respect, often fail in establishing or maintaining correct discipline, notwithstanding the severe manner in which they may wield the terrors of the Articles of War and the usages of the army. Soldiers, however rude they may be in manners, and however deficient in education, if treated as men possessing some degree of free-agency, will generally amply repay the confidence placed in them.

The punishment of flogging by the sentence of a civil court was abolished in India about the year 1831 or 1832, and it was then considered by the Governor-General that this degradation could no longer be inflicted upon the high caste Sepoy of the Bengal army. Under this impression, he recommended that committees, consisting of the Adjutant and Quarter-Master-General, with three other members, should be directed to assemble at each Presidency, to consider the expediency of altogether abolishing corporal punishment in the native armies of the three Presidencies. Two of the committees assembled in April 1834, and one in June of the same year. The majority of each committee were unfavourable to the abolition of corporal punishment.

With them all, (says Lord William Bentinck,) corporal punishment is the *sine qua non*, without which the discipline of the army cannot be maintained. An insuperable terror appears to reign over the imaginations of all, and, like the native superstition, that sees in some charm or amulet the only protection against all evils that can afflict the body or haunt the mind, so corporal punishment is venerated as the sole security against every military distemper, and as the sole guarantee for the efficiency and good regulation of the army. I denounce this opinion as prejudice, and nothing else but prejudice. It is opposed to reason—it is injurious to those feelings of the most importance for us to cultivate among our native soldiery,—satisfaction with their condition and allegiance to the State.

The infliction of corporal punishment was much more frequent in the Presidencies of Bombay and Madras than in Bengal, as will appear by the following abstract of the returns of punishments in the Company's army.

*Statement of the quantum of Corporal Punishment inflicted on the Sepoys of the Native Armies of Bengal, Madras, and Bombay, for the years 1829-33 :—*

	Bengal.	Madras.	Bombay.
Average lashes inflicted	209	1852	7657
per regiment . . . { Cavalry . . .	516	3588	5415
{ Infantry . . .			

The contrast between the three Presidencies in this statement will appear quite astonishing. For every lash inflicted in a cavalry regiment in Bengal, nine were inflicted in Madras and thirty-six in Bombay ; and for every lash inflicted in an infantry corps in Bengal, six and a half were inflicted in Madras, and ten in Bombay.

Upon an examination of the returns from Madras and Bombay, from the latter most especially, (says Lord William Bentinck,) it may be collected that, as was the practice in the British army in 1793, infliction by the cat-o'-nine-tails was the ordinary and general punishment for every offence, great and small, only varied as to the amount according to the different degrees of culpability,—but always the lash : except in regard to the most trivial offences, corporal punishment was the echo in each and every one of the Articles of War. The principle of checking crime by measures of extreme severity, both in the army, and out of it, has since been strongly condemned by public opinion, as being no less impolitic than cruel, and has gradually given away to milder penalties. Experience has proved the soundness of this doctrine, and corporal punishment is now maintained rather for its terrors, and only applied in cases of the deepest guilt.

Upon a full conviction of the expediency, safety, and true policy of the measure, Lord William Bentinck recommended the Council to abolish immediately corporal punishment in the native armies of India ; and as His Excellency's proposition met with the unanimous approval of the Council, the following Order was issued :—

Fort Willliam, 24th February, 1835.

The Governor-General of India, in Council, is pleased to direct that the practice of punishing soldiers of the native army by the cat-o'-nine-tails, or rattan, be discontinued at all the Presidencies ; and that it shall be competent to any regimental, detachment, or brigade court-martial to sentence a soldier of the native army, to dismissal from the service for any offence for which such soldier might now be punished by flogging, provided such sentence of dismissal shall not be carried into effect, unless confirmed by the General or other officer commanding the division.

I am not aware that any inconvenience has resulted to the service from the introduction of this highly important measure ; and as the abolition of corporal punishment from the civil penal code gave universal satisfaction to the native population, the abolition of it in the army must have been very gratifying to the native armies in all the three Presidencies.

In the *Appendix to the Report of the Commissioners on Military Punishments* there is a return shewing the establishment of the British army in each year from 1825 to 1834 inclusive—the number of persons tried by courts-martial in each of the said years—the number sentenced to various punishments other than corporal punishments—and the number on whom corporal punishments was inflicted; dated Adjutant-General's Office, the 18th

February, 1836, from which the following statement has been compiled :—

Years.	Establish- ment.	Number tried by Courts- Martial.	Proportion of Men tried, to the Establish- ment.	Number sentenced to Punish- ments other than Corporal Punish- ment.	Number on whom Corporal Punish- ment was inflicted.	Ratio of Corporal Punish- ment per 1000.	Proportion of Men who received Cor- poral Punish- ment, to the Establish- ment.
1825	98,946	4,708	1 in 21	2,280	1,737	17	1 in 57
1826	111,058	5,524	1 in 20	2,653	2,242	20	1 in 49
1827	111,107	5,340	1 in 21	2,541	2,291	20	1 in 48
1828	110,918	5,314	1 in 21	2,779	2,143	19	1 in 52
1829	103,747	4,782	1 in 22	2,705	1,748	17	1 in 59
1830	103,374	5,946	1 in 17	3,847	1,754	17	1 in 59
1831	103,413	7,438	1 in 14	5,549	1,489	14	1 in 69
1832	103,572	8,780	1 in 12	7,215	1,283	12	1 in 81
1833	103,527	9,628	1 in 11	8,320	1,007	9	1 in 103
1834	103,063	10,212	1 in 10	8,946	963	9	1 in 107
Total	1,052,725	67,672	1 in 16	46,835	16,657	15·8	1 in 63·2

This statement shews that the mean number of soldiers who were annually accused and tried during the period comprehended in the return was one in sixteen ; the lowest proportion being one in twenty-two, and the highest one in ten. The ratio of corporal punishments has decreased about one-half ; it is, however, obvious that while the infliction of flogging has been reduced, the number of alleged military delinquencies has been increased. How far the latter may be a consequence of the former I am unable to decide. Not only are the number of corporal inflictions reduced, in ten years, from twenty per 1000 annually, to nine, but if the limited sentences be taken into account, perhaps the number of lashes inflicted in 1834 did not amount to one-fourth of the number inflicted in 1825. Sir Henry Hardinge stated, in evidence before the Commissioners on Military Punishments, in 1836, "that, including men who have been serving for upwards of twenty years, the average of punished men throughout the army does not exceed thirty-six men at one time in regiments of 700, or three men and a half a company," being about five per cent. Consequently, the unpunished are twenty times more numerous than the flogged men. This is a highly gratifying account of the result of popular feeling being directed to meliorate an alleged grievance by means of public discussion. It indicates a great improvement in the condition of soldiers, without injury to the discipline and efficiency

of the army. How different is the present state of affairs, in this respect, from the time when, as is confidently alleged, the punished or degraded class of the army exceeded in number the unpunished !

The above table is a highly gratifying evidence of the progressive melioration of the administration of military law and military usages ; while it is asserted by competent authority, that the army never was in a more efficient condition. The following statement is, perhaps, still more encouraging. I may, however, premise that the number of men admitted into hospital, in consequence of corporal punishment, may not comprehend the entire number of men punished, because a man is not admitted into hospital unless the punishment he receives disables him for duty.

The following statement shews that the ratio of punishments in eleven foreign stations has been gradually decreasing during the whole period comprehended in the return. In the Bermudas, it is unusually high—a circumstance which requires to be noticed. It may be thus easily accounted for. During the years 1822, 1823, and part of 1821 and 1824, the garrison was principally composed of a wing of the second battalion of the 60th Regiment, then a penal corps, to which delinquents from other corps were transferred. Of 353 punishments, which were inflicted in the above mentioned period, all, except two, were men belonging to the 60th Regiment, though the mean strength did not exceed 260. Vice is much more infectious than virtue ; and to introduce an erring youth into a contaminated moral atmosphere, such as the 60th Regiment, had the certain effect of converting him into a “a man of confirmed bad habits.” Under these circumstances, it may be asked, what influence could punishment have in reforming a man—an important object in all secondary punishments—who was doomed to live and associate with the disgraced delinquents of a penal corps ? Or, would corporal infliction have any effect in deterring others from desertion, insubordination, or similar military offences ? I am disposed to say—none. To send an alleged incorrigible soldier to a penal corps for the purpose of being reformed, is not less absurd than to transfer an invalid to the coast of Africa for the benefit of his health.

*Statement shewing the Annual Number of Men admitted into Hospital, in consequence of Corporal Punishment, (flogging,) per 1000 of the Strength of the Troops employed in the following Military Stations:—*

Year.	Windward and Leeward Island Command.	Jamaica.	Gibraltar.	Malta.	Ionian Islands.	Bermudas.	Canada.	Nova Scotia and New Brunswick.	Ceylon.	Cape of Good Hope.	Mauritius.
1817	135	193	..	65	56	64	80	65	52	..	..
1818	154	198	14	100	64	51	52	46	41	76	43
1819	91	105	15	126	107	46	44	81	47	42	33
1820	56	110	14	137	75	36	54	71	57	47	22
1821	63	103	18	59	96	160	51	51	52	73	33
1822	76	73	9	42	89	409	53	34	59	43	36
1823	78	105	10	31	36	358	32	18	47	33	21
1824	84	51	18	35	34	288	26	17	49	56	20
1825	37	27	20	33	29	41	20	19	75	49	21
1826	26	29	26	22	21	80	18	11	73	36	19
1827	24	40	25	14	17	55	20	16	48	19	20
1828	37	39	19	28	21	20	29	22	44	24	35
1829	29	33	25	17	22	10	23	24	32	28	25
1830	38	37	21	19	22	18	16	23	22	19	44
1831	31	18	16	29	17	29	14	8	25	9	51
1832	26	26	10	10	15	31	8	17	20	15	43
1833	14	25	7	18	12	35	8	17	20	13	46
1834	14	26	8	18	11	18	4	14	23	6	29
1835	16	27	7	26	11	5	5	13	19	22	14
1836	8	8	7	18	8	5	3	12	19	16	16
Average	50	64	16	40	37	59	32	31	41	35	31

From a discussion which took place in the House of Commons, March 1842, it appears that out of 70,000 prisoners, who were in the several jails and houses of correction in England and Wales, in 1840, 1207 were flogged in prison; namely—juvenile offenders, 789; adults punished in pursuance of sentence of law courts, 348; punished for breach of prison discipline, 70. How far this statement may be below or above the usual ratio of punishments in jails and houses of correction, I have no means of determining.

For the repression of crime, we rely too much on coercion or forcible prevention; but it is not enough to punish delinquents, or to keep men from doing mischief: means should be taken to encourage them to do good.

The opinion, that corporal punishment might be discontinued in the British army, originated, it is alleged, in consequence of the partial or total disuse of such punishments, first in the army of France, and afterwards in the armies of the other Powers. The abolition of it in the French army followed the establish-

ment of the conscription ; and as the other countries of Europe have, to a great degree, followed the example of France in the mode of raising their armies, by ballot or conscription, they have also discontinued, or greatly diminished, the corporal infliction of soldiers. The well-educated and well-disposed among the conscripts become not only an example, but a check and control over the conduct of their comrades not so well inclined, and the whole machine is comparatively easily conducted.

Before the Revolution, the secondary punishments in the French army were of two kinds :—1st. *The picket*, which was used in cavalry corps. 2nd. *The gantlope*, a punishment which was chiefly in use in the infantry ; the rods or switches employed by the men in this infliction, were generally osier or willow twigs.

The modern punishments in the French army will appear from the following account of the administration of military law in France during the years 1838 and 1839, compiled from the *Moniteur*. These statements are adduced simply as interesting facts, not for the purpose of contrasting the punishments in the French army with the English, and advocating the superiority of either system.

A.D. 1838.—Mean strength of the French army, 314,919. Prosecutions, 4638 (being one in sixty-eight) ; and of these 3169, or one to ninety-nine of the strength, were convicted and sentenced, namely—

69 to death.
3 to transportation.
972 to hard labour.
109 to labour and imprisonment.
2007 to imprisonment.
9 to dismissal from the service.

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3169

Of the sixty-nine capitally convicted, ten were executed ; one in France for murder, and the nine others in Africa : three of the latter were Arabs, serving in the French army.

Of the 4638 individuals brought to trial, 2468 could read and write, and 2170 were completely illiterate.

The numbers of the delinquents in the respective classes and branches of the French army, were as follows :—

	Strength.	Tried.	Convicted.
<i>Staff and Military Superintendence.</i>			
Invalids . . . . .	7,000	1	..
Gendarmerie, &c. . . . .	16,974	13	6
Infantry, eighty-eight Regiments . . . . .	210,961	2464	1849
Cavalry, fifty-three Regiments . . . . .	37,769	392	263
Artillery, &c. . . . .	23,915	263	187
Engineers . . . . .	5,985	40	26
Waggon Train . . . . .	4,100	39	22
Veterans . . . . .	51,442	50	3
Military Schools . . . . .	..	2	..
<i>Officers, Military Administration.</i>			
Recruiting Depôts . . . . .	..	1107	579
Companies of Discipline . . . . .	1,600	103	72
Officers of the Army . . . . .	17,165	19	7
Non-commissioned Officers . . . . .	20,312	70	36
Corporals . . . . .	25,130	128	73
Soldiers . . . . .	252,312	4386	3029

A.D. 1839.—Mean strength of the army, 317,578 men; 4367 of whom were brought to trial, or one out of seventy-three. Twenty-eight were tried by the civil tribunal, 1310 were acquitted, and 3029 condemned; the proportion of the latter being one to 105 of the effective force of the army.

These condemnations were as follows:—

To Death	{ French Army . . . . .	98
	{ Natives of Algeria . . . . .	14
		112
To Imprisonment . . . . .		2028
To Hard Labour or Imprisonment in Irons . . . . .		243
To the <i>Boulet</i> (Log) . . . . .		220
To public Works . . . . .		419
To be reduced to the Ranks . . . . .		3
To Fine . . . . .		4
		3029

Of the 112 capitally convicted, only five were executed, all belonged to the army in Algeria—namely, one Frenchman for murder, and four natives of the Regency for the same crime.

Crimes.	Tried.	Convicted.
Desertion . . . . .	606	407
Recruits who failed to join their Corps . . . . .	881	471
Illegal Absence during Three Months . . . . .	4	3
Treason, Espionage, and Seduction . . . . .	12	7
Insubordination . . . . .	379	252
Robbery—Breach of Trust . . . . .	4	4

Crimes.	Tried.	Convicted.
Robbery of public Funds . . . . .	33	15
Robbing their Hosts . . . . .	10	5
Robbing public Property, or from Commander	443	317
Robbing Articles of Clothing . . . . .	244	209
Robbing similar Articles of less Value . . . . .	905	791
Incendiaryism . . . . .	2	-
Extorting Provisions by Violence . . . . .	14	8
Extorting Provisions without Threat or Violence	58	44
Forgery . . . . .	31	17
Desertion from Military Workhouses . . . . .	41	35
Other Military Offences . . . . .	41	17
Coining . . . . .	6	5
Forcibly breaking Prison . . . . .	12	12
Damaging public Monuments . . . . .	29	22
Murder . . . . .	17	11
Cutting and Maiming . . . . .	23	5
Inflicting Wounds voluntarily . . . . .	83	41
Violation of public Morals . . . . .	7	5
Rape . . . . .	6	3
False Evidence . . . . .	6	1
Robbery—Petty Larceny—Swindling . . . . .	312	114
Abuse of Confidence . . . . .	52	42
Damaging private Property . . . . .	3	3
Other minor Offences . . . . .	98	62

*Number of Delinquents in certain Classes of the Army.*

	Strength.	Accused.	Condemned.	Accused.	Condemned.
Volunteers . . . . .	28,432	992	737	1 in 29	1 in 39
Conscripts . . . . .	145,379	1615	1025	1 in 90	1 in 142
Substitutes . . . . .	70,405	1638	1189	1 in 43	1 in 59
Re-engaged . . . . .	13,635	32	24	1 in 426	1 in 568
Commissioned Officers	17,415	12	4	..	..

By the foregoing return of the year 1839, it appears, that about two-fifths of the French army are volunteers or substitutes, whose mode of enlistment in many respects resembles the form of engagement in the British army. Delinquencies prevail to a much greater extent among the volunteers than among the three other classes of recruits, namely, "conscripts," "substitutes," and "re-engaged," one being annually accused in every twenty-nine, and one convicted in every thirty-nine. In the English army, the mean proportion of men tried annually by court-martial during a period of ten years, ending 1834, amounted to one in seventeen, being rather more than double the proportion of offences among volunteers in the French army. The English returns do not

specify the difference between the accused and the convicted. To what cause may we attribute the superior degree of subordination,—the smaller number of delinquencies,—among volunteers in the French, compared with the British army? This is an important question. Are we to conclude that the French volunteers are a better, a more moral class of men than the recruits raised in the United Kingdom? I should think not. One circumstance peculiar to the French system may, and I believe has, much effect in contributing to keep the ratio of delinquencies low, namely, the limited duration of the engagement of French volunteers—seven years. It may be observed, that desertion, which is the prevailing delinquency in the British, rarely occurs in the French army. When French soldiers dislike the service they may anticipate a period of liberation, which British soldiers cannot, they having engaged to serve for life. As has already been stated, corporal punishment is not permitted in the French army, “not even striking a soldier with a stick.”—(*Evidence on Military Punishments*, Quest. 152.)

From recent accounts, however, it would appear that very energetic measures are adopted to maintain discipline in that portion of the army serving in Algeria, and that offences are severely punished, not always in conformity with the military code. The *Algerie* states, that “not only is the punishment of the *silo*, the *barre*, the *crapaudine*, &c., inflicted on our soldiers during the expedition, or in the desert, where no regular mode of repression exists, but they are also inflicted in places where there are *salles de police* and dungeons, in the towns and camps along the coast; at Oran, at the camp on the Sig, at Cherchell, at Bona, at the Camp of El Arish, in all the forts garrisoned by the battalions of light infantry of Africa, the companies of discipline and pioneers, and the regiments of the Foreign Legion. Our officers, certainly, find excellent reasons to justify the use of those inhuman measures. The men they command are, forsooth, drunkards, who sell their shoes, their shirts, and sometimes their muskets, to procure means to gratify their passion; and as the stock of those men is always incomplete, and it is necessary to replace those articles, they are confined naked in a *silo* during one month, two months, three months; and one-half, a quarter, or even one-eighth of their rations stopped, and the money thus saved serves to pay for the missing article. In this manner the interests of the State are secured, but the military code is violated by the application of illegal penalties. The Minister of War, now better informed,

will no doubt order the chiefs of those corps to conform hereafter to the military laws and regulations. We most sincerely desire it, for the interest of national dignity and of the army of Africa, where so little attention is now paid to them, and it is indispensable for the Government to insist on their strict observance."

The punishment called the *crapaudine*, consists in the offender having his hands tied behind his back, and one leg tied up, and being compelled, in this condition, to lie for a certain number of hours on his back or side. The *barre* is inflicted by tying the culprit by one or both legs to a bar, a gun, or a tree, according to circumstances; and the *silo* is solitary confinement in a pit or cave, in fact, a subterranean black-hole.

It is gratifying to observe that the sentence of death is not frequently carried into effect in the French army, and in general only for the crime of murder. During the years 1838 and 1839, the mean annual number of convictions in the French army amounted to about one per cent. (0·97); and it appears, from the mean of the last three years of the return of corporal punishments inflicted in the British army, namely, 1832, 1833, and 1834, that the annual ratio of men flogged was about one per cent. (1·04), the punishments, other than corporal inflictions, for the same period, being nearly eight per cent (7·8); consequently, about nine men per 100 are annually punished in the British army, and one man per 100 in the French army.

The punishments applicable to non-commissioned officers and soldiers, according to the powers vested in *general*, *district*, and *regimental* courts-martial, are as follow:—

*Death*, in cases specially prescribed in the Mutiny Act and Articles of War, being about eighteen in number. This sentence can only be passed by a general court-martial, and with the concurrence of *at least two-thirds* of the members.

*Transportation*, for life or a term of years, for all offences punishable by death.—(*Mutiny Act*, sect. 7.) A district court-martial has not the power of passing sentence of death or transportation.

*Corporal Punishment* (flogging).—The Articles of War restrict the award of corporal punishment by a general court-martial to 200 lashes; by a district court-martial to 150; and by a regimental court-martial to 100.

*Imprisonment*.—This punishment may be awarded by a general or district court-martial, limited as to time only by the discretion of the court, with or without hard labour. A soldier may also be sentenced to be kept in *solitary confinement* for any portion

or portions of such imprisonment, not exceeding *one month at a time* or *three months* at different times, with intervals of not less than one month between such times in one year ; and, as an additional punishment, to

*Forfeiture of additional pay* whilst serving, and *pension on discharge*, for any offence cognizable as an “immorality, misbehaviour, or neglect of duty.” A general court-martial has also the power to sentence the prisoner “to *general service* as a soldier in any corps, and in any country or place, which Her Majesty shall direct.”—(*Mutiny Act*, sect. 7.)

Further, the court may, in the case of desertion, award a second additional punishment, *marking with the letter D.*—(*Mutiny Act*, sect. 11) ; and may recommend the offender convicted of disgraceful conduct, to be discharged with ignominy.

*Suspension.*—A non-commissioned officer may be suspended for a fixed period from the rank and pay of a non-commissioned officer, and be sentenced to serve as and upon the pay of a private soldier.

When a non-commissioned officer is found guilty of an offence, he must be reduced to the ranks by the sentence of the court previous to the adjudication of any additional punishment.

A regimental court-martial has the power to sentence an offender to—

Corporal punishment, not exceeding 100 lashes ; or,

Imprisonment, with or without hard labour, for any period not exceeding forty days ; or,

Solitary confinement, not exceeding twenty days ;

And, in addition, to be put under stoppages, not exceeding two-thirds of his daily pay, to make up articles which he may have made away with.

Under certain circumstances, a soldier may, at any time, and by any description of court-martial, be placed under forfeitures, (whether of beer or liquor money, or of pay, or both,) not exceeding in the whole the amount of *3d. per diem*.

The punishments which courts-martial are called on to apply are either *peremptory*, that is, specially enjoined by the Mutiny Act or Articles of War, or they are *discretionary*, that is, the court in its judgment is authorised to award such punishment as it may deem proportionate to the offence. The chief peremptory punishments which apply to non-commissioned officers and soldiers, are forfeiture of beer money, and forfeiture of all claim to pension on discharge, and of all additional pay whilst serving. Conse-

quently, the punishments to which soldiers are liable are generally arbitrary or discretionary.

For the information of non-professional readers, it may be useful to notice the constitution and functions of courts-martial. General courts-martial are assembled under the authority of the Queen, or of an officer having the chief command within any part of Her Majesty's dominions, to whom such an authority may be delegated. A general court-martial usually consists of thirteen officers. District or garrison courts-martial are composed of seven officers, and are assembled by order of the officer commanding the district or garrison.

A regimental court-martial, which may consist of five or three officers, is held by the appointment of the Commanding Officer of the regiment. The officers for these courts are taken by rollster of the regiment. An officer is not expected to be named for a court-martial until he is considered fit for regimental duty,—an accomplishment which is commonly attained in a few weeks or months. A court-martial may be composed of officers all under age. The accused has no right to a *peremptory* challenge of a member of the court; he must assign his cause of challenge, of the relevancy of which the members are the judges. The sentences of all courts-martial, before being carried into effect, must be confirmed by the officers by whose authority they have been respectively constituted.

Trial by court-martial and trial by jury differ in several respects; in the former, a majority determines the verdict, while in the latter the verdict must, in England, be unanimous. According to the common law, much precaution is taken to prevent the influence of private partialities in judicial trial; which military law does not sanction. In tenderness to prisoners, the civil law allows a person who is tried for a felony to *peremptorily* challenge twenty jurors. Military officers have a direct interest in the preservation of discipline, which, considering the ordinary feelings of human nature, may produce a bias in their minds unfavourable to an alleged offender. The members of a court-martial administer a law to which they are, in many respects, not obnoxious, and award punishments to which they themselves are not liable. Courts-martial are not only arbitrators of the guilt and crime of the accused, but they are also interpreters and framers of the law. “*The members of a court-martial,*” says Tytler, “*are, in regard to many offences, the sole judges, or rather the legislators, for it is in their breasts to define the crime as well as to award the*

*punishment.*" Markham, who published his *Epistles on War* early in the seventeenth century, thus incidentally expresses his opinion of the administration of justice in the army:—

There is (says he) no constant law in the army but the judge's conscience for all manner of occasions, main trespasses only excepted, as *treasons, conspiracies, contempt of officers, cowardice, theft*, and the like; all which, by settled rules, are evermore most severely punished, so that to a well mixed law to have a better mixed temper, is the best election that can be found out by any noble and well-tried judgment.

Times in the wars (continues our author) make the nature of offences differ, for I have seen a man, who for stealing of a hat or such a trifle, nay, for going but out of his quarter, or breaking out of his array, hath been killed or hanged up immediately; when at another time great felonies have been committed, but yet escaped, horrible offences pardoned, and gross injuries highly praised. This hath been the working of times and the *conscience* of the judge, neither will I stand in this place to argue one or the other's greater goodness.

When a soldier conceives himself to be wronged by his Captain, the complaint is to be submitted to a regimental court-martial, from which either party may appeal to a general court-martial; but if the appeal shall appear to be vexatious and groundless, the person so appealing is to be punished at the discretion of the court. Appeals are very rarely resorted to in the army; one example may, however, be stated. A soldier on guard, belonging to — Regiment, while in the act of falling in, in front of the guard-room, stumbled, fell, and broke the stock of his musket. The Captain of his company charged him with the expense of repairing it, (10s. 6d.,) alleging that the stock was broken in consequence of his negligence. The soldier complained to his Commanding Officer, and a regimental court-martial was assembled, which decided the complaint in favour of the Captain. An appeal was made by the soldier to a general court-martial, and it was again decided against him. The men of the company to which the soldier belonged, being convinced that the musket was injured by accident, and not from negligence, refunded to him the full amount charged against him by the Captain. It may be observed, that in this case the general court-martial did not find the appeal vexatious and groundless.

In cases of emergency, a field or drum-head court-martial may be assembled for the trial of delinquents. Sometimes the accusation and sentence are written on a drum-head, whence they are called drum-head courts-martial. The proceedings are not committed to writing, but a circle being formed, the prisoner is arraigned, evidence is heard, the prisoner defends himself, and

the members communicate their opinions in a *whisper*, the President reports their sentence to the Commanding Officer, who, if he approves of it, orders it to be carried into *immediate* execution.

Drum-head courts-martial are, I believe, now rarely resorted to, except when troops are employed in the field, when summary punishments are considered necessary to preserve strict discipline. Colonel Campbell (*A British Army as it was, is, and ought to be*, p. 10) gives the following account of the precipitate punishments which were inflicted during the early part of the present century, together with the observations on the subserviency of members of courts-martial in awarding corporal punishment.

My surprise (says Colonel C.) often was, how officers who composed courts-martial could, by their sentences, always so readily lend themselves to the views, or perhaps badly-regulated feelings of their commanders; indeed, the trials I have witnessed were sometimes little else than mere matter of form, and they could not well be otherwise, for I have seen a soldier receive *two or three hundred, or even more lashes*, inflicted with great severity, under a sentence awarded by a drum-head court-martial, after an investigation of a few minutes' duration of the charges brought against him. Such arbitrary proceedings as these were generally abuses of power, with which many men are unfit to be entrusted, and from habit we really thought little of such matters, and the soldiers themselves were only thereby rendered the more callous. I declare, however, that I am at a loss to say which is preferable,—the prompt manner of acting in our navy, where a Captain, when he orders the punishment of a man, does so on his own serious responsibility, or that of a Commanding Officer of a regiment, who can generally act as he pleases, whilst all he does is sanctioned by a court-martial.

For an account of the minor punishments in the army, the reader is referred to a Circular Letter from the Horse Guards, bearing date 24th June, 1830.

I come now to describe the manner of carrying into effect the punishments above enumerated; and, first, of the punishment of death.

*Execution of the sentence of Death.*—In carrying the sentence of death into effect, which is generally by shooting, great ceremony is ordinarily observed. Formerly, it would appear that when two delinquents were to suffer at the same time, an execution party was told off or allotted to each criminal. This conclusion seems probable, at any rate, from the following account which Hume gives us of the execution of Sir George Lucas and Sir Charles Lisle. During the war between the Royalist army and that of the Parliament in the reign of Charles I., the town of

Colchester, which had long held out for the King, was obliged to surrender at discretion. Fairfax, who commanded the besieging army, instantly seized Sir G. Lucas and Sir C. Lisle, two of the gallant defenders of Colchester, and resolved to make them instant sacrifices to military justice. Lucas was first shot, and he himself gave orders to fire with the same alacrity as if he had commanded a platoon of his own soldiers. Lisle instantly ran and kissed the dead body, then cheerfully presented himself to a like fate. Thinking that the soldiers "*destined for his execution*" stood at too great a distance, he called to them to come nearer. One of them replied, "*I'll warrant you, Sir, we'll hit you.*" He replied, smiling, "*Friends, I have been nearer you when you have missed me.*"

The following is the ordinary mode of carrying a military sentence of death into effect in modern times. An execution party, consisting of ten or twelve men, commanded by a Sergeant, is usually found by the regiment to which the prisoner belongs, and placed under the orders of the Provost Marshal. The troops to witness the execution being formed on three sides of a square, the prisoner, escorted by a detachment, is brought on the ground. The Provost Marshal heads the procession, followed by the band of the prisoner's regiment, (drums muffled,) playing the Dead March in Saul; the execution party comes next; then four men, bearing on their shoulders the prisoner's coffin, which he himself follows, sometimes attended by a chaplain: the escort bring up the rear. The procession passes down the front of the three faces of the square, facing inwards, brigades or regiments being in line or in column, as their numbers and the nature of the ground may allow. On the procession arriving on the flank of each regiment, the band of that regiment plays the Dead March in Saul, and continues till the procession has cleared its front. On arriving at the open face, the music ceases; the prisoner is placed on the fatal spot marked by his coffin. The charge, sentence, and warrant for execution are read aloud; the chaplain, having engaged in prayer with the condemned person, retires; the execution party forms at six or eight paces from the prisoner, and receives the word from the Provost Marshal. If its fire should not prove instantaneously effectual, (for a man may be pierced by a number of balls without any of them touching a vital spot,) it is the duty of the Provost Marshal to complete the sentence of the court-martial with his pistol. Sometimes the fire of a file or two is reserved to be prepared for this painful occur-

rence. Captain Kincaid (*Adventures in the Rifle Brigade*) relates the circumstances of six men who were paraded and shot for desertion; two remained standing after the first fire, and the Provost Marshal was obliged to put an end to their sufferings by placing the muzzle of a piece at each of their heads. It is the duty of the senior medical officer on parade to report to the Commanding Officer that the sentence of the court has been completed. After the execution, the troops usually march past the body in slow time.

Captain Kincaid, in his *Random Shots of a Rifleman*, informs us that on the retreat of the British army to Corunna, Sir Edward Paget, who commanded the reserve, caused two plunderers to be tried by a court-martial, and they were sentenced to suffer death. The troops were ordered to parade, and the men were executed under the fire of the enemy.

When a soldier who is condemned to suffer death is pardoned, it is nevertheless usual to go through the preparatory formalities by way of example. During the American War of Independence, a marine was shot at Plymouth, who had received His Majesty's pardon, when it was only intended to frighten him in this manner. The Major who commanded, intended to carry the ceremony to the fifth act, and to exhibit the Royal pardon just before the dropping of the curtain. However, by some oversight or mistake, the catastrophe happened before the *denouement* took place, and the life of the unfortunate victim was sacrificed to the observance of military forms, or rather to the neglect or inattention of those who were appointed to conduct them.

A capital punishment occurs very rarely in the army, except on active service. I never saw it carried into effect but once. A military execution is truly a terrible sight. Great military show is purposely displayed, with the intention of rendering it as impressive as possible to the troops who are to witness it; but how far this tends to prevent crime, is a difficult problem to solve.

Does the public execution of a sentence of death upon a soldier, act beneficially by deterring others from the commission of crime? In many instances, public exhibitions of this kind seem to have no such effect, if we may judge from the results. Some authors of high character as profound thinkers, have recommended that capital, and indeed all corporal punishments, should invariably be carried into effect in private, because the imagination exaggerates the terrors of the penalty, while familiarity and public *éclat* lessen them.

Capital punishment has hitherto been considered a necessary and unavoidable evil, which, with all its dreadful preparations, and the terrible ceremony of the execution itself, is retained less for the punishment of the criminal, than as a warning to others not to follow his example. But whether we have a right to torture, and finally to put to death a criminal, in order to deter others from repeating his offence, may be doubted. It has been often observed, that extremely severe sentences, such as capital punishments, defeat their own object; they certainly fail to prevent desertion.

During the American War of 1813, desertions from our army to the United States were frequent; and to prevent this, men who were caught in attempting to cross the boundary line were executed: six were shot in one day, but without any beneficial effect. In order to shew with what indifference individuals met death, and, by inference, how little effect this punishment had in preventing crime, the particular circumstances which attended the execution of one man may be stated.

A private (says Colonel Campbell, then Brigade Major of De Meuron's regiment) was to be executed. The troops were formed in three sides of a square; at the other side, towards the forest, the grave was dug, and the coffin for the criminal to kneel upon was placed, as usual upon such occasions, beside it. The Provost, with the firing party, escorting the prisoner, and with the band of the regiment at their head, playing the Dead March, entered the square,—when, to my surprise, there proudly marched the prisoner, coolly smoking a cigar. Seeing the bad effects likely to result from such evident contempt of death, painful as it was to me, I called the Provost, and ordered him to take away the cigar from him. On approaching the grave, the prisoner walked quietly but steadily forward, looked into it, and turning round to me, said in French, "It will do." He then walked up to his coffin; and before I was aware of what he was about, with his middle finger and thumb he measured its length, and turning round to me, he said in French, which his corps generally spoke, "It will do also." He refused to permit his eyes to be covered, pushing the Provost aside, and exclaiming in French, "I am a brave soldier, and have often looked death in the face, and shall not shrink from it now." The Provost made signs to him to kneel upon his coffin, but he replied, "I prefer standing, and shall do so firmly." The party fired, and in an instant he ceased to exist.—(*A British Army as it was, is, and ought to be*, p. 95.)

This mode of executing the sentence is liable to some serious objections, more especially on account of the circumstance that a prisoner may be pierced with a number of balls without ceasing to live. When Placido, the chief conspirator of an insurrection in

the island of Cuba, was executed, five balls entered his body. Amid the murmurs of the horror-struck spectators, he rose from the bench upon which he was sitting, and turned his head towards the soldiers, his face wearing an expression of superhuman courage, "Will no one have pity on me?" he said. "Here, (pointing to his heart,) fire here." At that instant two balls pierced his breast, and he fell dead. Nineteen insurgents were shot at the same time with Placido.

A soldier belonging to one of the regiments at present serving in India, fired at a Sergeant on the parade ground of the corps, and killed him. The delinquent was tried and sentenced to suffer death. Unusual care was taken to render his execution as solemn and impressive as possible. At the execution, he was completely dressed in white, with a rosette of black ribbon on his breast, for the purpose of serving as a target for the men to fire at. Nothing was omitted which seemed calculated to intimidate others, and to deter them from following the example of the criminal. A few weeks after this man was executed, a private of the same corps shot the Adjutant through the head on parade, of which wound he died in a moment. The soldier was seized, tried, and sentence to suffer death, without loss of time. Before his execution, it was suggested to the Commanding Officer, that as the pompous ceremonial which attended the former execution seemed rather to please with its *éclat*, than to deter from insubordination and crime, another mode of carrying the sentence into effect might be tried, perhaps with advantage. The Commanding Officer benefited by the hint he had received, and the criminal was privately hanged at a little distance from the cantonments of the corps, and afterwards hung in chains. No similar delinquency followed the execution.

The sentence of death has sometimes been carried into effect in India by blowing a criminal out of a mortar, or from the mouth of a cannon. In 1832, six native soldiers were convicted at Bangalore of having been engaged in a conspiracy, which had for its object the subversion of the British supremacy in Mysore. Four of them were sentenced to be blown from guns, and two to be shot with musketry, the former mode of execution being deemed the nobler, or rather the less ignominious of the two. In this instance, the men who were to be blown from guns were tied to stakes driven into the ground, when the guns, six or nine-pounders, loaded with blank cartridge, were run close up to them. After the explosion, the guns were found bespattered with blood

and brains, while the legs, and a portion of the trunk of some of the criminals, were still attached to the stakes to which they had been bound, the other parts of the bodies having been scattered far and wide over the dusty plain.

The mode of carrying the sentence of death into effect in the French army, is thus described by a French officer:—

The troops form three sides of a square, the fourth is left vacant for the passage of the balls. The culprit arrives accompanied by a priest. The drums all at once beat a march, till the sufferer is in the centre of the troops. They then beat a *ban*, as that beat is called, which precedes and follows every kind of proclamation. The Captain-reporter reads the sentence—the drums close the *ban*—the culprit is made to kneel down: he is blindfolded, and twelve corporals, commanded by an Adjutant-Subaltern, fire at the wretched man, at the distance of ten paces.

To diminish, if possible, the agony of the prisoner, the words of command are not uttered, the Adjutant makes signals instead of them with his cane. In case the man is not killed outright, as it sometimes happens, a reserve platoon, composed of four men, is ready to despatch him, by clapping the muzzles of their pieces to his head.

After the execution of the sentence, all the troops defile before the corpse. They then return to their quarters; the circumstance is talked of for two or three days, and very soon forgotten. I have seen (says the author I am quoting) many of these unfortunate men die with admirable fortitude. I have seen some of them address the regiment, and give the command to fire, while not a syllable denoted the slightest emotion in them. But the man who in this predicament displayed the most astonishing courage, was General Malet, who conspired against Napoleon in 1812. On being conducted, with twelve of his accomplices, to the plain of Grenelle, he, as the chief of the conspirators, asked permission to give the command to fire. “Carry....arms!” cried he, in a voice of thunder. “That won’t do; we must begin again. Your piece on the arm all of you! Carry....arms! Good—Platoon.... Arms! Present! Fire!” All fell excepting Malet: he was left standing alone. “And why not me? *Sacre nom de Dieu!* Reserve platoon, forward! Right! Carry....arms! Platoon....Arms! Present! Fire!”

Charette, the Vendean chief, was shot by the Republican soldiers, after being made prisoner, himself giving the word of command, and to fire at his heart. The gallant Hofer also gave the word “Fire!” in a loud and articulate voice, when he was executed.

The sentence of death is thus carried into effect in the Austrian army:—

A square is formed, of which one side is left open; and near the centre three men are selected, who stand in front of the criminal, who is blindfolded, and kneels before them, while they place the muzzles of their pieces within about nine inches of his head and heart. The signal for execution is given by the Commanding Officer striking his boot with his sword.

*Transportation.*—To effect the transportation of a delinquent, either in pursuance of the original sentence, or in commutation of capital punishment, it is necessary that the Officer Commanding-in-Chief should notify the sentence to any Judge of the Queen's Bench, who is thereon enjoined to make an order for the transportation of the offender.

All laws in force concerning persons sentenced to transportation, their escape and rescue, are extended to persons transported by sentence of a court-martial.

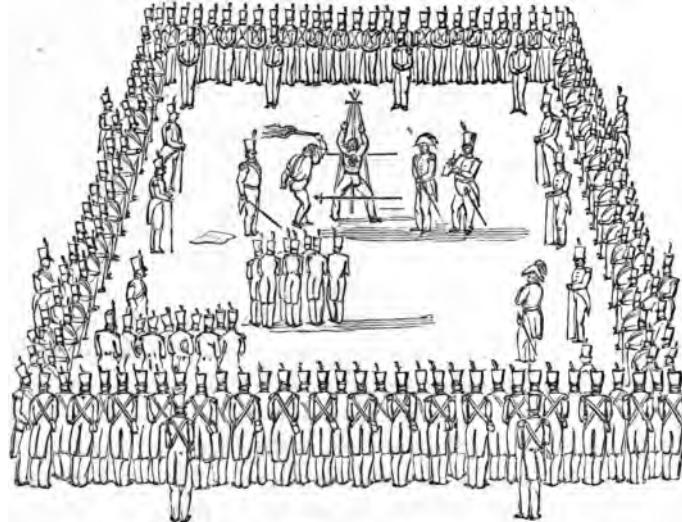
Transportation has no other recommendation as a punishment for soldiers, but that it gets rid of offenders. Even in civil life, it has hitherto had little or no effect as an example, partly because the culprit himself scarcely thinks it a punishment, and partly because the distance causes both him and his crime to be forgotten as completely as if he were removed by death. When the sentence is passed on men, they sometimes say, "*Thank you, my Lord;*" but, in the army, relegation is frequently an object of desire;—hence, the punishment of transportation may become an incitement to the commission of military offences. This result takes place not only in the United Kingdom, India, and other stations, where the hardships of a convict in New South Wales are unknown, but it also occurs among the troops serving in that colony, who must be well acquainted with the pains and penalties to which convicts are liable. Dozens of men, it is said, commit crimes, or mutilate themselves, for the express purpose of becoming convicts, more especially at the time when a corps is about to be transferred from New South Wales to India. The men appear to balance the advantages and disadvantages of being a convict, with the advantages and disadvantages of being a soldier, and give the preference to the condition of a convict.

According to good authority, the disposition to leave the army, and become convicts, is now less strong among soldiers than formerly.

*Corporal Punishment* (flogging).—In awarding the sentence of corporal punishment, a court-martial commonly states, that the infliction shall be "*on the bare back, with a cat-o'-nine-tails, in the usual manner;*" but the last four words were formerly sometimes omitted, as is alleged, for the purpose of conveying to the officer ordering the execution of the sentence, a power to inflict the punishment on the back or breech, at his discretion.

The mode of inflicting corporal punishment is usually as follows:—The brigade, garrison, regiment, or detachment, being under arms, is formed into a square in some retired spot, often

in the ditch of an outwork of fortified places or posts, to receive the prisoner, who is brought by an escort to the centre of the brigade. The Commanding Officer, the Adjutant, the medical officer, the band, and the Drum-Major, with the drummers, next take their respective stations within the square. The Town-Major, or Adjutant, as the case may be, proceeds to read aloud the charges, sometimes the proceedings;—but invariably the sentence of the court, and the approval of the competent officer, the prisoner being uncovered, and advanced a pace or two in front of the escort. The delinquent is then directed by the Commanding Officer to *strip*, which he does to the waist: he is forthwith tied to a machine termed a triangle, which consists of three legs or poles, connected by a belt at top, and separate about four feet at bottom; to two of the legs a bar is fixed, at a convenient height, that the prisoner's chest may rest against it. The hands being pulled up to the top of the triangle, are there secured with cords by the drummers, who also tie him to the triangle round the upper part of the thighs and the ankles. Halberts are sometimes rigged out, to serve the purpose of triangles,—a circumstance that has originated the common saying, “bringing a man to the halberts,” which is



synonymous with bringing him to corporal punishment. At other times the prisoner is lashed to a gun-wheel, or to a tree. A cartouche belt, which is held by a drummer, is usually thrown over the man's head, and rests on the back of his neck, by which means his head is kept steady.

About the year 1768, a surgeon, belonging to one of the regiments then stationed at Gibraltar, invented a machine for confining a delinquent during the time of punishment, which consisted chiefly of a plank with holes cut in it, something like the common stocks, the culprit being placed on a stool before it, and his head bent down and put through one of the holes, and there fixed. His arms were stretched out, and in like manner put through other holes, cut for this purpose in the plank. The feet and legs were fastened together as he sat on the stool. By this contrivance the back was exposed to the cats, and a delinquent was effectually prevented from swinging about in the common way. On trial, this machine was found to be attended with great inconvenience and injury to the men; and it was consequently laid aside, the old mode of the halberts being again adopted.

The subject of prison discipline has lately attracted a good deal of attention; for the benefit of those interested in such subjects, we subjoin the description of two German inventions. The first has for its object to prevent the person under flagellation from wincing; and the second for preserving good order within the jails: they are thus noticed in a letter from Berlin, of the 28th June:—

The Government of Hesse-Cassel has lately adopted an instrument destined to place and retain in an immovable position any person who has been sentenced to be flogged, during the punishment. Our Government, which does not wish to be in arrear in the progress of such improvements, has enriched the hangman's arsenal with an instrument of the same nature, which has had bestowed on it the name of *Pougel-tisel* (flogging-board or table). We have also brought into play another instrument destined to punish offences committed by both sexes within the walls of the prison. It is a shallow chest, to which they have given the name *Zwangstahl*, in which the patient is placed in such fashion, that he (or she) is doubled up, with the face and knees nearly touching. Imagine the pain and misery of being shut down in such a narrow space, particularly in hot weather, as there are only a few small holes bored in the lid, enough to supply air for respiration: the length of this penance is limited to ninety minutes for the men, and seventy for women; but it may be renewed at intervals of an hour and half, or two hours.

Has this been the result of Royalty praying with Mrs. Fry?—(*Naval and Military Gazette.*)

Untoward circumstances may arise from tying a man too tight, as well as allowing him more freedom than is necessary. For want of due attention to this, the hands, above the ligatures, from the stoppage of circulation, have turned black, and remained numb for several days, which partly arises from a man's hanging, as it were, by the hands. When the ligatures are too loose he

is liable to move from side to side, by which means the *cats* fall on unsuitable parts of the body; if too low, the instrument is applied to the ribs, and if too high, the tails of the cat may twist round the neck, injure the face, and endanger the eyes. Sergeant Teesdale (*A Letter to the People of England*, 1835) informs us, that a remarkably fine young soldier, belonging to the — Regiment, who was undergoing corporal punishment on board a transport, having been insufficiently secured, disentangled himself from the ropes, jumped overboard, and was drowned. Two of his comrades, who were good swimmers, leaped over the ship's side with a view to save him, but without success.

A culprit having been secured, the requisite number of drummers, who have been previously *told off* by the Drum-Major to inflict the punishment, commence their operations, by each taking off his cap, coat, or jacket. The Commanding Officer then says, “Go on; and Drum-Major, see that the drummers do their duty.” The Drum-Major gives the time to the drummers, by audibly calling, “One,” “Two,” “Three,” &c., in slow time.

When the first drummer has inflicted twenty-five lashes, the Drum-Major calls out, in a loud voice, “*Stop, twenty-five,*” and then orders a second drummer to supply the place of the first. When another twenty-five lashes have been inflicted, the Drum-Major again calls out, “*Stop, fifty,*” and so on till the punishment is completed. It is the duty of the Adjutant, who stands near the triangles, to record the number of lashes inflicted. Water is always at hand for the purpose of a delinquent’s drinking, or to restore him from fainting by sprinkling a little on his face.

The first stroke of the cat occasions an instantaneous discolouration of the skin from effused blood, the back appearing as if it was thickly sprinkled with strong coffee, even before the second stroke. Sometimes the blood flows copiously by the time the first fifty or 100 lashes are inflicted; at other times, little or no blood appears when 200 lashes have been inflicted. During the first 150 or 200 lashes, a man commonly appears to suffer much, considerably more, indeed, than during the subsequent part of a punishment, however large it may be. The effused blood in the skin, or, perhaps, some disorganization of the nerves of sensation, seems to occasion a blunting of its sensibility, and thereby lessen the acuteness of the pain arising from the application of the cat. Left-handed drummers, whose cats are applied to a portion of sound skin, and drummers who have not been

sufficiently drilled to flogging, spread the lashes unnecessarily, and excite an unusual degree of pain. Delinquents frequently call out to the drummer to strike higher, then lower, and sometimes alternately. A story is told of a drummer, who, while he was flogging a man, had been frequently found fault with by the floggee, and who, forgetting the usual etiquette of a military parade, said, in an audible voice, "Flog high or flog low, there is no pleasing you, Barney McKanna."

An ex-drum-boy, who had attained the rank of a commissioned officer, gives the result of his own manual experience in the following terms :—

From the very first day I entered the service as drum-boy, and for eight years after, I can venture to assert, that, at the lowest calculation, it was my disgusting duty to flog men *at least three times a week*. From this painful task there was no possibility of shrinking, without the certainty of a rattan over my own shoulders by a Drum-Major, or of my being sent to the black-hole. When the infliction is ordered to commence, each drum-boy, in rotation, is ordered to strip, for the purpose of administering twenty-five lashes (slowly counted by the Drum-Major) with freedom and vigour. After a poor fellow had received about 100 lashes, the blood would pour down his back in streams, and fly about in all directions with every additional blow of the cat, so that by the time he had received 300, I have found my clothes all over blood from the knees to the crown of the head. Horrified at my disgusting appearance, I have, immediately after parade, run into the barrack-room, to escape from the observations of the soldiers, and to rid my clothes and person of my comrade's blood.

General Sir Charles Napier thus describes the physical consequence of large punishments upon delinquents, and the moral effect upon the spectators :—

I have seen (says the General) many hundreds of men flogged, and have always observed, that when the skin is thoroughly cut up or flayed off, the great pain subsides. Men are frequently convulsed and screaming during the time they receive one lash to 300 lashes, and then they bear the remainder, even to 800 or 1000 lashes, without a groan; they will often lie as if without life, and the drummers appear to be flogging a lump of dead raw flesh. Now, I have frequently observed, that in these cases, the faces of the spectators assumed a look of disgust; there was always a low whispering sound, scarcely audible, issuing from the apparently stern and silent ranks,—a sound arising from lips that spoke not; but that sound was produced by hearts that felt deeply, and this too, when the soldier believed in its justice, and approved of the punishment, when the willing drummers had, up to that moment, laid on the lash with great asperity. This low and scarcely audible sound spoke aloud to my mind, that the punishment had become excessive, that the culprit had disappeared and the martyr taken his place.

The low sound mentioned by General Napier, which is heard issuing from the ranks during punishment, sometimes resembles what may be called *sniffing*, (drawing the air strongly up the nose,) and which may be occasioned by an increased flow of tears into the nostrils.

The Drum-Major is presumed to see that the ends of the cords of the cats are not entangled during the infliction, so as to produce a more serious blow than intended, but that they are disengaged from time to time; should the cords become heavy with coagulated blood, they are sometimes washed with water. As nine of every ten of the drummers are right-handed, and consequently stand on the left of a delinquent, the right shoulder suffers much more severely than the left. Left-handed drummers appear, as has already been observed, to inflict more pain than right-handed punishers, in consequence of the cat being applied to a sound and sensible part of the skin of the back. The Drum-Major stands behind the inflicting drummer with a cane in his hand, and his eyes fixed on the sufferer's back, ready to lay it hard and heavy on the shoulders or thighs of the punisher, should he think he is laying on lightly or *unfair*. I have seen a Drum-Major "lay on" a drummer with merciless severity. It would appear that a Drum-Major was formerly *admonished* to do his duty in a similar way to that by which he occasionally excites the drummers, by the infliction of the cane. "The Adjutant," says Dr. Hamilton, "charges the Drum-Major, and often enforces it *with a stroke of his rattan*, to make the drummers *do their duty*; he, in return, strikes the punisher, who, if he is able, is compelled to add force to his next stroke on the delinquent." The practice of rattaning a Drum-Major upon punishment parades, did not fall into complete disuse for several years after the commencement of the present century. I have been assured by an officer now living, and not an old man, that he has seen a Drum-Major chastised on parade, with a cane, by an Adjutant, for alleged leniency in the performance of his duty.

In some cavalry regiments it was customary to count ten between each stroke of the cat; and we are assured, that in many corps the cats were not washed, the blood being allowed to dry upon them, for the purpose of rendering the punishment more severe.—(Hamilton.) A Commanding Officer is, however, not now justified in prolonging the infliction beyond the usual time; and charges have been grounded upon the non-observance of such caution.—(*General Order*, No. 450.) The previous preparation

of cats, by steeping them in brine, and washing them in salt and water, during the punishment, has also been prohibited. A case happened not long ago, when this circumstance was made the subject of a charge against a Commanding Officer, who received an admonition, according to the sentence of a court-martial.—(*General Order*, No. 511.)

The instrument of punishment, the cat-o'-nine tails, seems to have undergone some variations in its construction. Dr. Hamilton describes the cats used, when he wrote, as consisting, generally, of six cords. When Governor Wall was tried for flogging Sergeant Armstrong to death, the Lord Chief Baron Macdonald thus described what he called the legitimate instrument of punishment :—“The cat-o'-nine-tails,” says he, “is an instrument of punishment composed of small cords—the cords are *nine* in number ; and they are generally whipped at the ends with threads that are turned up and twisted round with a bit of thread, in order to prevent their unfolding ; the handle of this instrument is wood.” No notice is here taken of knots being on the cords, but this is, probably, an omission.

I may here observe, that Armstrong was tied to a gun-carriage, and flogged by Africans, each man inflicting twenty-five lashes in turn. The instrument employed in this case, was a rope one inch in diameter, and he received 800 lashes.—(*Howell's State Trials*, vol. xxviii., p. 57.)

An officer, who had risen from the humble station of a drum-boy, and who has already been quoted, gives the following account of the cat-o'-nine-tails :—

I am ignorant (says he) what sort of cats were used when flogging was first introduced into the army, but they are now, I believe, very different in different regiments, and, indeed, there is sometimes a variety kept in the same corps. Those which I have seen, and *used*, were made of a thick strong kind of whip-cord, and on each lash, nine in number, and generally about two feet long, were tied *three* large knots, so that a poor wretch, who was doomed to receive 1000 lashes, had 27,000 knots cutting into his back, and men have declared to me, that the sensation experienced at each lash, was as though the talons of a hawk were tearing the flesh off their bones.

According to Captain Simmons, “the cat-o'-nine-tails consists of a drum-stick, or handle, of wood of equal length, having fixed to it nine ends of whip-cord about sixteen inches long, each knotted with three knots, one being near the end.”—(*Remarks on Courts-Martial*, 1830, p. 276.) So far as I know, there is no pattern

cat deposited in any of the public offices, nor any specific instructions, issued by authority, for the construction of this instrument.

The cat-o'-nine-tails which I have in my possession, and which is stated to be the usual size, consists of a handle of wood, about the same length as a drum-stick, having fixed to it *nine hard cords* about *twenty-one inches long*, each cord having *nine knots*, half an inch distant from each other, one being near the end. Delinquents commonly pay 1*s.*, or in some regiments 6*d.*, for the use of the cats; and this charge is regularly entered in a soldier's monthly account, thus—"Drum-Major's charge, 6*d.*" Should a soldier complain of the charge, which he sometimes does, it is alleged that the Drum-Major offers to present him with the cat or cats which had been employed in punishing him; and this proposal generally puts an end to the business. I have heard only of one instance in which an occurrence of this kind took place. In the — Regiment, serving in Ceylon, each soldier who was flogged was charged a shilling for the use of the cats. Several men of one Company claimed the cord for which they had thus paid: their claim was at once allowed, but the Captain of the Company insisted upon having the cats inspected regularly, along with their other necessaries. This practice was continued until another Captain joined the Company, who permitted them to be thrown away.

In the Indian army the cord required for cats, used to be furnished by indent (requisition) from the public stores. It will be recollect that during the reign of William III. the punishment of whipping was inflicted by means of rods, not with cats, and that the expenses incurred in the purchase of the instruments of punishment, and a remuneration to the floggers, were defrayed by Government, by means of a contingent bill. At what time cats began to be used, and when it became customary to assess the flogged to pay for cord, I have not learned.

Rods are still employed for flogging or whipping in the Austrian, Prussian, and Russian armies. In the Austrian service a Colonel in command may, without a court-martial, order fifty blows to be given, a Major forty, and at all times the Captain of a company may inflict twenty-five blows. The rod or stick employed, which should be hazel, is not to be thicker than the bore of a musket, and it is to be without knots. The delinquent is laid over a drum or bench, and the blows are given on the breech by two Corporals, one on each side. Whipping is not to be inflicted upon a de-

linquent without his clothes on, and not with the point, but with the full length of the rod.

In the Prussian military service any Commanding Officer may inflict corporal punishment on a soldier degraded to the second class, to the amount of thirty stripes of the cane, or, if they belong to sections already under punishment, forty stripes, in military form. The prisoner is not undressed, but keeps his shirt and working-jacket on during the infliction of the lashes. The punishment is inflicted with small canes, by a non-commissioned officer, and never in public, but in a separate place, such as the guard-room or barrack, and in presence of his comrades. It deserves to be noticed that, with respect to minor punishments, it is strictly enjoined that every precaution be taken not to injure a delinquent's feelings of honour.

In 1844, the Prussian Government promulgated a new penal code for the army, composed of 287 articles. The *schlague* (the application of the stick or cane to delinquents) is mentioned in the new code, but with certain restrictions, calculated to render its use less frequent.

Whipping is not employed in the Russian army, except in the case of non-commissioned officers and soldiers who do not belong to the class of Nobles. For grave offences the Commanding Officer of a corps may order a man to be whipped to the extent of twenty blows, but only *par le moyen de verges* (switches).

These punishments are severe, but fortunately are restricted in amount, the necessity of limiting the power of military judges to award and inflict penalties being highly necessary. The policy of the Mosaic law in this respect deserves the imitation of all legislators. By this law, when a man was found "worthy to be beaten" the judge might sentence him to receive a certain number of stripes, according to the character of the offence, but the number was never to exceed *forty*.—(Deut. xxv., 3.) The importance of such a restriction is obvious. Among the Romans, delinquents were sometimes flogged to death, there being no limitation to the number of blows which might be inflicted. The maximum of the Athenian punishments was fifty stripes. The Jews fixed the practical maximum at thirty-nine stripes; and hence we read of "forty stripes save one" in the New Testament.—(2 Cor. xi., 24.) The punishment was inflicted with a cat or scourge, with three tails or thongs of leather, thirteen strokes of which counted as thirty-nine, which "might not be exceeded."

The usual mode of inflicting punishment is on the back of a

delinquent; but during the last war, it was very common to flog also upon the breech. Sometimes the punishment was inflicted on the breech, for the purpose of rendering it more painful, at other times to render it more disgraceful, and occasionally with the view of saving the back, when the skin was inflamed, or otherwise unsound, from repeated punishments. Sometimes a man was flogged on the calves of the legs, perhaps in consequence of both the back and breech being unsound from former inflictions, and consequently very liable to tedious ulceration. In one regiment it was customary for a time to give twenty-five lashes alternately on the back and breech. The Commanding Officer of another corps used to order a man to receive twenty-five lashes on one shoulder, and then twenty-five on the other; a similar plan being adopted with the breech, twenty-five lashes being inflicted by a left-handed drummer upon the left buttock, and twenty-five by a right-handed drummer on the right. This amount was frequently inflicted on a march, the delinquents being obliged to carry their knapsacks after the punishment. Flogging on the breech is more painful than on the back, probably in consequence of the greater sensibility of the extreme parts of the body.

At what time it became customary for medical officers to be present at the corporal punishment of flogging I have not been able to ascertain. With reference to the duty of a medical officer on such occasions,—“it is,” says Dr. Hamilton, “his business diligently to watch over the sufferer; for should the punishment adjudged prove greater than it is his opinion the delinquent can bear, without hazard of his life, he has authority to stop the drummers (the executioners) at any period of it, and order him to be taken down.” In another part of the work he says it is the duty of a surgeon to “*watch the suffering delinquent attentively, to order him from the halberts whenever he is thought in danger, whether the sentence of the court-martial be altogether executed on him or not. In this the Commanding Officer has it not in his power to control him, if he thinks it expedient to assert his right of opinion and authority.*” The Doctor’s opinion in this matter may be doubted. The usage of the service has long rendered it necessary for a medical officer to be present when a man is punished; but I am not aware of any authority by which he would be warranted in assuming any practical control in the business. A medical officer is ordered to be present, for the purpose of performing this anomalous duty; but hitherto no official instructions have been issued to regulate him in the exercise of his

functions. According to the usage of the service, his duty seems to be two-fold :—1st, to see that a delinquent does not escape any part of his punishment by simulating disabilities ; 2nd, to see that a man is not permanently disabled, or his life endangered, by the punishment. To use the language of a late Judge-Advocate-General, Sir Charles Grey, the medical officer is not present for the purpose of assuaging pain and relieving suffering, but to ascertain *the extreme limit of human endurance*.

In the exercise of this duty, when a medical officer observes any symptoms arise during the punishment, which, in his opinion, indicate the expediency of suspending the infliction, it is, by the usage of the service, his duty to approach the Commanding Officer, and to respectfully recommend that the punishment be suspended. The Commanding Officer usually directs the man to be forthwith taken down. But, as a Commanding Officer sometimes asks the surgeon whether the delinquent is not able to bear a greater number of lashes, he should invariably be prepared to give a suitable answer. A man may be able, in all probability, to endure a somewhat greater amount of punishment, without materially endangering his prospective fitness for the service ; but it may be highly inexpedient, in the opinion of a medical officer, to sanction the infliction of a punishment to the utmost verge of safe endurance.

When a soldier has received the punishment awarded to him, or when the Commanding Officer remits part of the sentence, he is released from the triangles, and his shirt being loosely thrown over his shoulders, he is marched off to hospital. Here his back is dressed by being covered with cloths wetted with a dilute solution of the sugar of lead. The dressings are kept in their place by means of a cloth, technically known by the name of a "saddle," and sometimes by that of a "wrestling jacket." In Ceylon and the peninsula of India, punished men are usually dressed with plantain leaves.

In cases where there are a considerable number of men to be punished, or when time is very limited, two triangles are sometimes put up in one square, by which means two men undergo punishment at the same time. I have seen two triangles actively employed in the square of a regiment, and I have heard of three being in use at the same time. Occasionally, also, punishment takes place at night, by means of torchlight, or rather by the light of a lantern. All the men who are to be punished are usually brought into the square at one time, and consequently some of the

prisoners have to endure the anguish of seeing their comrades undergo a punishment similar to that which is awaiting themselves. The agony of the prisoners may be imagined. Two men belonging to — Regiment were brought out for punishment, one a young lad, the other comparatively an old soldier. The lad, who was tied up first, screamed dreadfully, by which the old soldier was completely unmanned; and while the Staff of the regiment were superintending the punishment, he, without being observed, took a razor from his pocket, and made an attempt to cut his throat. He was, however, secured before he effected his purpose, and finally recovered.

A scene of another kind occurred at a punishment parade of the — Regiment. A soldier, who thought he was harassed by a Lieutenant W—, committed some offence, and was tried by a court-martial in Corfu. When brought out to receive the punishment awarded, he drew a bayonet he had concealed underneath his watch-coat, with which he threatened to take the subaltern's life; and although he injured no one, beyond his menacing attitude and threats, yet he was tried by a general court-martial for the capital offence, namely, for "drawing, or offering to draw, or lifting up a weapon of violence against his superior officer." He was found guilty, and suffered death by being shot.

Instead of exciting a disposition to resentment, the ignominious prospect of being flogged has occasioned individuals to commit suicide. While the army was lying at Rangoon, in the year 1824, two privates belonging to — Regiment, somewhat intebriated, met General — in their wanderings. They pretended to be ignorant of his rank, and would not salute him. They were both tried by a regimental court-martial, the General himself appearing to give evidence against them. Being found guilty, they were sentenced to receive corporal punishment. The delinquents were fine high-spirited young men, and though in this instance they had grievously offended against military law, they were generally well-behaved soldiers. On the morning after the court-martial, at an early hour, the regiment paraded for punishment. The triangles were placed, and the drummers stood by them in their shirt-sleeves, but no prisoners appeared. Where are they? was asked on all sides. It was soon ascertained that one of them had shot himself during the night, thus preferring death to the ignominy of a public flagellation. His case excited much sympathy, more especially as, at the solicitation of the General Officer who brought him forward, the sentence was to

have been remitted ; but the result of a court-martial is not promulgated till the regiment is assembled on parade the following day. Such is one of the mournful examples of the evils which result from the indiscriminate use of the lash.—(Captain Doveton, *Reminiscences of the Burmese War.*)

When I was a subaltern (says General Napier) I then frequently saw 600, 700, 800, 900, and 1000 lashes, sentenced by regimental courts-martial, and generally every lash inflicted. I have heard of 1200 having been inflicted, but never witnessed such an execution. I then often saw the unhappy victim of such barbarous work brought out from the hospital *three and four times* to receive the remainder of his punishment, too severe to be borne without danger of death at one flogging ; and sometimes I have witnessed this prolonged torture applied for the *avowed purpose* of adding to its severity. On these occasions it was terrible to see the new tender skin of the scarcely-healed back again laid bare to receive the lash. I declare that, accustomed as I was to such scenes, I could not on these occasions bear to look at the first blows ; the feeling of horror which ran through the ranks was evident,—and all soldiers know the frequent faintings that take place among recruits when they first see a soldier flogged.

Some men evince great fortitude during punishment, and will endure 700 or 800 lashes without complaining. I recollect attending at the punishment of seven men, each of whom received 600 lashes without one of them saying a word. Where there are a number punished at one time, the fortitude of individuals is strongly exercised by way of rivalry ; and those who behave best, or evince the greatest powers of endurance, become the heroes of the day : they enjoy a kind of triumph. Flogging, to be useful, should not be inflicted on a number of persons at the same time, for the infamy of many resolves itself into the infamy of none.

Many implore for a remission of their punishment, and frequently exclaim, “Oh, Colonel, forgive me !—oh, Doctor, take me down, and I’ll never come here again ! five-and-twenty are as good as 500 ;” and I must say that I usually entertained a similar opinion with the delinquent. It has been well observed, that the cause of all human corruptions proceeds much more frequently from the impunity of delinquents, than from the moderation of punishments. We ought to make a prudent use of the means which nature has given us, to govern soldiers, and to be more anxious to inspire good morals than to inflict heavy penalties. “*Il ne faut pas,*” says Marshal Saxe, “*que les chatimens soient rudes ; plus ils seront doux, et plus promptement vous remediez aux abus.*” Upon witnessing the punishment of flogging, it is

impossible, I think, to avoid coming to the conclusion, that military law and military usages should aim at economizing pain, by diffusing the largest amount of salutary terror, and thereby as much as possible deterring from crimes at the smallest expense of corporal infliction.

In general, offenders conduct themselves with as much submission and propriety while they are undergoing punishment, as could be expected. Sometimes their expressions are calculated to excite a smile. "Oh, Colonel, take me down!" said a man of the — Regiment; "take me down, I say, for God's sake!" After being silent for a short time, he again addressed the Colonel as follows:—"I see, Colonel, that you do not intend to order me down. *I always thought you were a gentleman until now.*" The Colonel was a kind man, and took no notice of the implied stain upon his character.

Occasionally a man will set a whole regiment laughing, in some instances apparently from intention, and in others from simplicity. One man, after imploring the intercession of a long catalogue of the saints in the Roman Catholic calendar, exclaimed, "Oh, son of David, take me down." A smile was excited in some of the spectators by the *equivoque*, the Commanding Officer's name being Davidson. The Colonel observed, that there is no resisting such an appeal, and ordered the punishment to cease.

An unfortunate bât-man, belonging to the 94th Regiment, when it was employed at the Cape of Good Hope, was sentenced to be flogged. He bore the first twenty-five lashes manfully, and made no complaint, but when the second drummer commenced, he winced a good deal, and soon after exclaimed, in the genuine Scotch dialect, "*Gude guide us, but this is sair wark.*" Both officers and men burst into a fit of laughing, and the Major who commanded lost not a moment in taking the man down, and dismissing the parade.

During the time a private belonging to the Artillery was receiving corporal punishment, he begged earnestly to be forgiven, and frequently called upon Major D—, the Commanding Officer, to take him down. The Major replied, by saying that he would not remit one lash of the sentence which the court-martial had awarded him. "It is always with reluctance," said the Major, "that I bring a man to a court-martial; and even at this moment I feel as much pain as you do." "Oh, then," said the man, "just come and take my place," apparently implying that it was inexpedient for both to be suffering punishment.

Some men appear to amuse themselves by a kind of soliloquy while they are receiving punishment. "I think," said an old soldier, belonging to the — Regiment, who was in this situation, "that when I receive the present sentence, I shall have got about 12,000 lashes, which are quite enough, and I do not intend to come here any more." This man was soon after discharged.

Some men convert the infliction into a source of amusement, by the discordance of their remarks with the pain they are obviously enduring. "An Irish dragoon who was brought to the triangles, not only bore the lash without wincing, but between each round administered by successive operators, was ready with some absurd remark, which converted the whole scene into a farce rather than an example, neither officers nor men being able to preserve their gravity. Amongst other things he had the assurance to tell his Commanding Officer, 'that he might release him, as he had now been thrashed to his satisfaction.' He, however, reserved his best stroke for the last ; for as they were casting him off from the triangles, he turned round, and with a countenance in which fun and suffering were ludicrously blended, exclaimed, 'Ah, you may talk of tobacco, but this is the real twist.' "—(*Life in the Ranks.*)

An example of another kind may be stated. A Captain T——, of — Regiment, had a *chère amie* in his barrack-room, and one evening, while he was at mess, the sentry on the officer's quarters, seeing no immediate probability of his attention being occupied in the way of duty, pulled off his boots, and leaving them with his musket in his sentry-box, proceeded softly to visit the said *chère amie* ; but, unfortunately for him, Captain T—— left the mess at an unusually early hour that evening, and found the sentry in his room. The sentry was tried by a court-martial for leaving his post, and sentenced to be flogged. When he had received about one-half of his sentence, he cried out most lustily, "O take me down, Colonel ; take me down, and give the rest of the lashes to Captain T—— ; he is as much to blame as I am ; for if he had not kept that woman in his room, I would never have left my post."

It is hardly necessary to observe, that punishments which greatly excite either the risibility or the sympathy of the spectators, do no good,—they possess little or none of the deterring principle.

The Commanding Officer of a corps may remit all or any part of a sentence which has been awarded by a regimental court-martial ; but he is not warranted in remitting any part of the sentence of a man who has been tried by a district or general court-martial. An instance happened not long ago, in which an

officer took upon himself the responsibility to mitigate the punishment directed by the sentence of a district court-martial; and the consequence was, that he received a very severe reprimand from the Horse Guards.

Punishments should, it is presumed, be regulated by equity and utility. A man may be *justly* sentenced to receive corporal punishment, but a question may be asked, will the infliction of the sentence be useful? Anything may be said to be *just* which is conformable to, or consistent with, established enactment or usage; but the exercise of indiscriminate *justice*, without mercy and without humanity, may be excessive cruelty. It is perhaps too much to expect that soldiers should conduct themselves with strict propriety while they are enduring the pains and penalties of military law; and Commanding Officers are, I believe, in general, much disposed to overlook some want of military decorum in their expressions of pain and suffering under such circumstances. But I am well aware that many good men, and excellent Commanding Officers, at one time deemed it highly expedient to appeal to the cat-o'-nine-tails upon the commission of every offence, however trivial, and under whatever circumstance the alleged delinquency was committed. Colonel C——, who commanded the — Regiment in 1808, had the character of being unwilling to bring men to the halberts. He punished much by solitary confinement, and a bread and water diet, the ration of bread allowed being very limited. The men under confinement were regularly marched out for exercise every day, under the charge of a non-commissioned officer. On one occasion it was discovered that a delinquent had, against orders, purchased a small loaf, for which offence he was tried by a court-martial, and sentenced to receive 300 lashes, all of which were inflicted without his saying a word. But upon his being taken down, he addressed his Commanding Officer in the following words:—"Colonel, you have done for me; and Doctor," said he, "you also have done for me." The utterance of the words having been deemed a serious offence, he was forthwith tried on parade by a drum-head court-martial, and sentenced to receive 300 lashes, which were inflicted before the parade was dismissed.

Soldiers are liable to be severely punished for using reproachful words towards any person immediately under the protection of a court-martial. The following is an instance exemplifying the usage in such cases, extracted from Captain Hough's *Practice of Courts-Martial*, p. 456.

G. O. C. C., 8th January, 1821.

At an European court-martial, Gunner Lowe, of the 2nd company, 1st battalion of Artillery, was arraigned upon the following charge, namely :—

*Charge.*—With having said, in the presence of the Court, that he did not consider Lieutenant Cameron's conduct like that of a gentleman, on the evening of the 16th instant.

18th September, 1820.

*Finding,* Guilty. *Sentence,* 600 lashes.

This sentence was approved and confirmed by the Marquis of Hastings.

Of all injustice, that is the greatest which is perpetrated under the name of law, and of all sorts of tyranny none is more grievous than the forcing of the letter of the law against equity.

Flogging is not often inflicted on a march, although sometimes it takes place. The Commanding Officer of the 3rd battalion — Regiment, in the Netherlands, in 1814, had, it is said, upwards of seventy men flogged on the line of march in one day.

Corporal punishment has been inflicted even during a conflict with the enemy. I quote from Sergeant Teesdale.

The — Regiment took an active part in the battle of Quatre Bras. On the 17th June, the army retreated, and on the line of march two men of this corps fell out to get a drink of water. They were ordered by the late Sir Thomas Picton, to be marched prisoners with the rear-guard. General Picton, in riding through the lines on the 18th, about nine o'clock, saw a man of the same regiment discharge a musket. The General sent him instantly to the rear-guard, and gave orders to try him and the two men he had confined on the retrograde movement the day before, and flog them, notwithstanding the enemy's troops were advancing towards us at the time. It is a fact, that when the regiment was forming square for the court-martial, a private who was frying some meat in a Frenchman's steel jacket, which he had brought with him the day before from Quatre Bras, lost the whole of his mess by a cannon shot that alighted close to his newly-invented culinary utensil, filling it full of sand and dirt. The square, however, was formed, and the three men were tried by a drum-head court-martial, and flogged, each man receiving every lash of his sentence.

One of the men was shot dead in the field within two hours after he was flogged, a second was wounded, the third escaped. The two men found out of the ranks, were punished for disobedience of orders; and the third for firing off his comrade's musket, the charge of which had been damaged by the rains, and whose alleged motive for doing so was to render it serviceable.

*Corporal Punishment considered with reference to the duty of a Medical Officer.*—I have now to consider the punishment of

flogging in the army with respect to the duties of a medical officer.

A regulation has lately been introduced into the service, (1838,) which directs, that before a soldier is brought to trial by a court-martial, he is to be examined by a medical officer, who, if he is of opinion that the prisoner is in a good state of health, and capable of undergoing corporal punishment, or imprisonment, solitary or otherwise, will grant a certificate according to the following form :—

I certify that No. Private \_\_\_\_\_ of the Regiment, is in a good state of health, and fit to undergo corporal punishment or imprisonment, solitary or otherwise, and with or without hard labour.

Signature of the Surgeon or }  
Assistant-Surgeon. \_\_\_\_\_

Before this regulation was issued, a medical officer did not necessarily know that a man was to be flogged until he saw him tied up to the triangles ; and it was then too late to make any enquiries respecting the state of his health, or whether he was fit to receive corporal punishment or not. It was formerly by no means unusual for a medical officer to be directed to attend at the punishment of a number of men whom he had never seen, and of whom he knew nothing.

To certify that a soldier is fit for duty is sometimes attended with some difficulty ; but to report a man to be able to undergo corporal punishment is a measure which requires still more careful consideration. In this country the duty in question is comparatively easy ; but in tropical countries, where, in consequence of the prevalence of disease, every man is, on an average, two or three times in hospital in the course of twelve months, a regiment will always contain a considerable number of men who are not likely to endure the punishment of either flogging or imprisonment with impunity. The following example will illustrate the difficulty which sometimes occurs in the execution of this duty. A soldier belonging to — Regiment, serving in India, was sentenced to receive 100 lashes, a punishment which was commuted by the approving officer to imprisonment for a short period. The man had been carefully examined by a medical officer previously to trial, who emitted the required certificate of health and fitness to undergo corporal infliction. Within twenty-four hours after this man was confined, he was attacked with remittent fever, followed by *delirium tremens*, and narrowly escaped with his life. Had he received his sentence, 100 lashes, there is some reason for concluding that his

career as a soldier would not have been long ; and, perhaps, the medical officer might have been unjustly inculpated.

During the great prevalence of endemic or epidemic disease, or when symptoms of scurvy or ill-conditioned sores appear among the men, it may be highly expedient for a medical officer to recommend that corporal punishments should not in any case be inflicted.

In addition to the general health of a man, I would strongly recommend a medical officer invariably to pay much attention to the state of his mind. Military crimes, such as desertion and insubordination, are not unfrequently the result of idiotcy, weakness of intellect, or partial insanity, a circumstance of much importance in the administration of military discipline, and one which a medical officer would require carefully to investigate. Fictitious madness has no doubt been treated as real ; but, what is of much more importance to my subject, real madness has escaped unobserved, or has been treated and punished as fictitious —a fearful mistake when the penalty was such a punishment as flogging. With the view of illustrating the importance of this branch of the duty of a medical officer, I have subjoined a brief account of a melancholy case, with which I was well acquainted. Similar instances might be quoted, but it is hoped they are not necessary.

Private Charles Louis, — Regiment, complained during the month of December 1826, of pain in the loins, stated to be the result of a sprain received in the preceding July, but which he had not previously mentioned. He went on furlough soon after, and did not return until the 24th February, 1827, when he continued to state that he was unable for duty. He was then admitted into hospital; his appetite was good, the other functions of the body were apparently healthy, and no symptom of disease could be detected. He was in general remarkably taciturn. He was discharged from hospital, but would do no duty. He was tried by a regimental court-martial for disobedience of orders, which sentenced him to undergo corporal punishment; and on the 15th March he received 175 lashes, without making the slightest complaint. He continued to refuse doing duty, and was a second time tried by a court-martial, and sentenced to be confined for one month in a solitary cell; but when released from confinement he still refused to do duty. He was transferred to the General Hospital, in Dublin, on the 30th May, where he remained under the care of Dr. Cheyne until the 12th July, when he rejoined the regiment to which he belonged. During the time he was in Dublin the greatest care was taken to investigate his case by Dr. Cheyne and other medical officers; but no satisfactory evidence of disease, either physical or mental, was observed. Shortly after Louis joined the regiment, symptoms of alienation of mind appeared, which were for some time supposed to be

feigned; but, after close observation for a period of several months, the surgeon was satisfied that his mind was unsound. In July 1827, he was again admitted into the General Hospital, Dublin, in consequence of decided mental alienation, and during the year 1828 was transferred to the Military Asylum at Fort Clarence, where he expired on the 26th August, 1838.

According to the Articles of War, "any soldier who shall be convicted of malingerer, feigning, or producing disease or infirmity," shall "be liable, in addition to corporal punishment," to any other punishment which the court may be competent to award. Medical officers are doubly responsible in cases of suspected malingerer: in the first place, because it is usually upon their evidence that a soldier is convicted; and secondly, inasmuch as they are required to certify that he is fit to undergo punishment. Medical evidence, in regard to malingerer, has seldom any better foundation than inference or presumption; and however improbable the allegations of a man may appear, some doubt will generally enter into the mind of a medical officer in regard to the existence, in a greater or less degree, of the alleged disability, of which doubt the accused should have the benefit. A medical officer may certify that a soldier is, in his opinion, fit for duty, although it is believed he will rarely consider himself warranted to swear that a man is not suffering more or less under physical or mental disease —real or imaginary.

Instead of bringing an alleged malingerer at once before a court-martial, I think, with Dr. Cheyne, that a board, consisting of at least three medical officers of mature experience, would be found the better tribunal in the first instance, and upon their decision the ultimate measures should be grounded. It is easy to infer and to allege, that a soldier is fraudulently feigning a disability; but it is frequently very difficult to prove satisfactorily that he is not more or less affected with disease. No person should be convicted of the crime of malingerer, unless it be very satisfactorily established by skilful and impartial testimony. A medical officer who has had the care of an alleged malingerer, and who has reported him to his Commanding Officer, may have so far identified himself with the accusation, as to be somewhat biassed in his opinion of the case; and consequently a court-martial will be required to estimate the weight of his testimony, according to what they may deem its real value. I repeat my opinion, that no man should be punished for a delinquency so difficult to appreciate as feigning a disability, but upon the testimony of two competent and impartial witnesses.

Numerous examples might be adduced to shew the caution which should be observed before a medical officer certifies that a man is in sound health, and fit to receive corporal punishment.

In a regiment of native infantry (India) a tent-pitcher was the bearer of a note from the Adjutant to the medical officer, a young man, stating that he wrote at the request of the Commanding Officer, who, as well as himself, was convinced that the man was feigning disability in order to evade duty; that they sent the man to be examined, and if he (the medical officer) should be of the same opinion, the tent-pitcher was to be forthwith flogged. The man was a strong, hale, stout-looking fellow, but with a somewhat heavy expression of countenance. He complained merely of headache, and feeling languid,—and looked the picture of health; his tongue was clean, his skin was cool, but his pulse was a little lower than the average. The medical officer wisely decided that further enquiry was necessary, and the Adjutant was informed that the man was not well. He died during the night, probably from apoplexy. Medical officers are well aware that serious disease may be impending, without being indicated by any external character which they are able to recognize and appreciate; and men who appear stout and well may be very ill, although they cannot state their cases clearly.—(*Medico-Chirurgical Review*, No. 79, p. 75.)

Colonel Campbell in his *Excursions, &c.*, gives the following account of the flogging of a suspected malingerer on board a transport, which will shew how the Articles of War and the usages of the army were administered.

Darby Star, a clean, regular, good-looking soldier, was suspected of being rather *shy*, and tried by a court-martial for feigning disease. It appears that the principal witnesses for the prosecution were the surgeon and his hospital Sergeant. Darby was sentenced to receive 500 lashes, and tied up to the grating at the gangway of the ship, and had fifty lashes inflicted upon him in an amazing short space of time. "Stop," said his stern commander; "will you, Darby Star, confess that you are a malingerer?" Darby was speechless. "Go on;" and the Drum-Major was told to see that the drummers did their duty. He received twenty-five lashes more. "Stop, will you now confess?" In a very weak voice Darby protested that he was as innocent as the child unborn. "Take him down." But all present were told to mark their Commanding Officer's words; and they well knew his word was never broken. "You, master Darby Star, shall every Monday morning receive fifty of the 500 lashes to which you are sentenced, until you acknowledge you are a malingerer."

This address resembles in some respects the spirit of a torture warrant of the sixteenth century, of which the following are two specimens. Shortly after the accession of Queen Elizabeth, the Privy Council directed two prisoners to be examined; and if the men should persist in denying the fact, they were "to be brought to the rack and to feel the smart thereof, as the examiners, by

their disretions, shall think good for the better *boultng* out of the truth of the matter." In 1565, a letter was addressed by the Council "to Lord Scrope, directing him to deal *somewhat sharply* with Nicholas Heath, to the end that he should declare why he wandereth abroad, and if he will not be plain, to use some kind of torture toward him, so it be without any great bodily hurt."

Next Monday came: Darby was almost carried up from below, with scarcely an appearance of life in him, his back by no means healed, from the effects of the punishment he had received. Without further ceremony, he was again fastened to the grating. "Drummers do your duty," sounded in Darby's terrified ears. I confess I really pitied him; his appearance deceived me; and I knew not what to think. Colonel D—, however, stood determined to go through what he had begun. During the infliction of twenty-five more of the lashes, which I noted with an unsteady hand (Colonel Campbell, the narrator, being the Adjutant of the corps), Darby called out, in an astonishingly loud voice for so sickly-looking a wretch, that he would confess anything in the wide world if he would only be forgiven. "Stop! you confess yourself, then, to have been all along a malingerer?" "O yes!" groaned Darby. "Speak out, Sir, so that all on board may hear you distinctly." "O yes, yes," roared Darby. "Take him down. Now, Sir, you must convince everyone present that you are quite recovered; and to shew that you really are so, you must, as an old dancing-master, instantly give us a jig." A drummer and fifer were ordered to be in readiness to play a tune; and as soon as he was dressed, Darby got on with his jig in first-rate style.

The proof of imposture in this case depends on the same fallacy which attends any confession that may be extorted by the rack. Evidence thus obtained is a deceitful and dangerous instrument; for many persons will tell any kind of falsehood rather than undergo the torture. Besides, it should be recollectcd, that every healthy man who alleges that he is sick, is not an impostor; he may with all honesty believe that he is suffering under disease, and unable for duty. Shortly before the Revolution of 1793, the Parliament of Paris suspended two Judges from their office, who had ordered the execution of a man for the alleged murder of a woman, proved only by his own confession under torture,—the woman being discovered alive within two years after the execution of the supposed murderer.

The *General Regulations of the Army* direct that "no punishment is to be inflicted but in the presence of a medical officer;" but hitherto, so far as I know, no instructions, either military or medical, have been issued in regard to his duties on a punishment parade. In the last edition of *Instructions to the Surgeons of Regiments*, issued from the War Office, (1st February, 1845,)

the duty of being present at the punishment of a soldier is not mentioned. What, then, is the duty of a medical officer when he officially attends the flogging of a soldier?

In reply to this question, I will quote a passage from an address to the jury by the late Lord Chief Baron Macdonald, on the trial of Colonel Wall. "It is usual," said his Lordship, "even in the infliction of ordinary punishments, that the assistance of surgeons should be called in, when the punishment is intended at the outset to be only such as experience shews us is never, without a very singularly unlucky accident, attended with death. The medical officer is, it would appear, to guard the life of a delinquent under punishment, so that the army may not lose the services of a man by death, or by being permanently disabled. In the execution of this highly important duty he must be guided by a knowledge of the physiology and pathology of the human body, the habits and duties of soldiers, and an acquaintance with the regulations and usages of the army. A medical officer is presumed to divest himself of any opinion he may entertain in regard to the delinquency a man has committed, or the sentence which has been awarded him; his duty being, in the first place, to prevent the man from escaping punishment by feigning indisposition; and secondly, to see that he does not receive such a degree of injury as may endanger life, or disable him permanently for the duties of a soldier. While a surgeon should invariably lean to the side of safety, duty requires that he ought to be scrupulously careful not to unnecessarily obstruct the course of military law—the rules and usages adopted to establish and sustain military discipline."

A medical officer generally takes his station a few paces behind the man who is undergoing punishment; but should symptoms of fainting come on, he sometimes moves towards the front of the sufferer, so as to see his face. It is scarcely possible, I think, to place a man in a more distressing situation, when he must frequently witness the imploring countenance, the speaking eye, of a gallant, good-natured, though erring old soldier, anxiously pleading for a remission of his sentence—pleading, I may say, as if the medical officer had it in his power to suspend the punishment at his discretion.

In the performance of the duty of being present at a punishment parade, a medical officer may be said to undergo a professional trial. Should he give way to his feelings, and unduly interfere with the course of law, he may incur a serious responsibility—the

disapproval of his superiors. On this subject I may quote the opinion of Dr. J. Gordon Smith, who served for a number of years in the 12th Dragoons. "*Taking a man down*," says he, "who is able to endure the award of a court-martial, is a thing out of the medical province. I have been obliged to take men down before the infliction of 100 lashes, and I have seen 1000 well laid on without injury to the prisoner. If, after touching his hat to the Commanding Officer, and stating that in his judgment the man could not receive any further punishment at that time, the punishment should be persevered in, the surgeon would be warranted to turn away, and protest that he cannot be responsible for the sequel." In my opinion, a medical officer would not, under such circumstances, be warranted in either *turning* or *going away*, or in obtruding any protest respecting his responsibility. He has so far performed his duty, when he has in a respectful manner recommended that the punishment should be suspended ; but he should neither leave the parade nor reiterate his recommendation, unless the Commanding Officer solicits his opinion.

Formerly, when a medical officer obtained the character of being easily affected by the sufferings of a delinquent, it sometimes happened, in the case of a man being sentenced to a considerable punishment, that another medical officer was ordered to attend the execution of the sentence—one who had obtained the character of not being so easily moved by the feelings of humanity. Let it always be recollected that the execution of a sentence is usually entrusted to the Commanding Officer of a regiment, and that, as he has a direct interest in the preservation of its discipline, and is commonly the person who has brought forward the delinquent for trial, he may be expected to entertain a wish that the offender should receive the whole infliction to which he has been sentenced.

We learn by the evidence of Sir John Macdonald, (*Evidence on Military Punishments*, Quest. 40,) that it is at the *peril* of a Commanding Officer to order the infliction of a single lash after a medical officer interferes for the purpose of suspending punishment. But it does not appear that he incurs any danger by so doing, unless death is the result ; in which case the law will, I presume, throw the burden upon him, the law implying malice where the death of a fellow-creature is occasioned by any one, unless a justifiable cause can be shewn for such death. Even when a medical officer does not interfere, a Commanding Officer is to a certain degree responsible for the result of the punishment he

superintends. In the notorious case of Governor Wall, who was tried for the murder of Sergeant Armstrong, Mr. Ferrick, the Garrison Surgeon, who was present when Armstrong was punished, did not recommend that the punishment should be suspended. The outlines of this case may be briefly stated, in as far as regards the duty of a medical officer.

On the 10th July, 1782, Armstrong was flogged at Goree, in Africa, by the order, and under the superintendence, of Governor Wall. He was flogged by negro slaves, and the instrument used was a rope, about one inch in diameter. He received 800 lashes, and walked to hospital, which was about a quarter of a mile from the parade-ground. He died on the 15th July. The punishment had commenced before the Surgeon appeared on parade; but he was present during the greater part of the infliction. It appeared to him to be "rather severe than otherwise;" but he did not seem to think at the time that it was worse than the usual punishment; and according to his evidence, Armstrong did not make more noise than the punishment usually excites. It occurred to the Surgeon, during the infliction, that he was called upon, in the exercise of his duty, to observe upon the state of Armstrong, and the severity of the infliction; but he made no such statement to Governor Wall. The Judge was unwilling to permit the Counsel for the Crown to ask the Surgeon why he did not make a representation of his opinion of the punishment to the Governor. It may, I think, be inferred, from the evidence he gave, that he was intimidated. He was then about twenty-three or twenty-four years of age, and had been in the profession only two or three years.

The Lord Chief Baron Macdonald, in his charge to the jury, upon this trial, expressed the following sentiments:—

I think it necessary to tell you, that if a punishment is inflicted, unusual in its circumstances either as to quantity or the instrument with which that punishment is inflicted, it will not take off from those who inflict that punishment a great deal of responsibility. \* \* \* Notwithstanding the surgeon attends, and notwithstanding he does not interpose and make representations upon it, they who inflict the punishment, if it should be most inordinate in its quantity, or in the manner of inflicting it, by the nature of the instrument, or otherwise, may, under certain circumstances, not exculpate themselves.

Governor Wall was tried on the 20th January, 1802, and found guilty; he suffered death on the 28th of the same month.

The officer who is entrusted with the execution of a sentence of corporal punishment, usually complies with the suggestion of a

medical officer, when he recommends that a soldier should be taken down from the halberts. Martinets of the old school have, however, not only disregarded the suggestion of a medical officer, but even reprimanded him for his interference in favour of a man who was undergoing punishment. I once attended a corporal punishment, and suggested to the Commanding Officer, at what I considered due time, that the punishment should be suspended ; but no attention was paid to my recommendation. The following is a remarkable example of disregard to the opinion of a medical officer. Dr. G—, Surgeon to the — Regiment, officially attended the punishment of a soldier in an island in the West Indies, who had been sentenced to receive 500 lashes. When about 250 lashes had been inflicted, Dr. G— recommended that he should be taken down ; but the Commanding Officer lost his temper, and censured the Surgeon for interfering ; he at the same time declined to suspend the punishment. Nay, more ; while the punishment was going on, he continued to reprimand the medical officer for interfering, and finally ordered the Adjutant to put him under arrest, which was done, and he remained under arrest, until, in consequence of an appeal to the General Officer, through the principal medical officer, he was liberated, having been confined for about ten days.

A medical officer, who is officially present at a military punishment, is placed in a most unenviable situation, being in some measure held responsible for the consequences of the injury thereby inflicted, which is obviously unjust, inasmuch as the punishment is too uncertain in its operation for any one to ascertain the boundaries of danger. Moral feeling, age, strength, nervous irritability, climate, previous disease, organic defects, and other circumstances, many of which it would be impossible for the most skilful and the most careful to detect, may render a punishment fatal, which had been intended to be but moderate or lenient. No medical officer can answer either for the immediate or ultimate consequences of this species of corporal punishment. Inflammation of the back, or general fever, may occur after a very moderate infliction, which may terminate fatally, notwithstanding the greatest diligence and attention on the part of a well-informed conscientious surgeon.

Every officer, upon becoming a member of a court-martial, swears that he will duly administer justice according to the rules and Articles of War, without partiality, favour, or affection, and he further adds, “ *If any doubt shall arise, which is not explained*

*by the said Articles or Act, then according to my conscience, the best of my understanding, and the custom of war in like cases."* A medical officer who is present at the infliction of corporal punishment enters, I presume, virtually into a similar engagement, namely, to do his duty impartially, and in the absence of specific instructions, to be guided "*according to his conscience, the best of his judgment, and the custom of war in like cases."*" Under such circumstances, it may be asked why should medical officers bear a heavier responsibility, when untoward circumstances follow corporal punishment, than the members of the court-martial by which the sentence was awarded?

With reference to the responsibility of medical officers, I may here advert to two remarkable examples, for the purpose of shewing that they should be particularly careful in regard to the duty of attending the execution of a sentence of corporal punishment. Two men belonging to the — Regiment, stationed in Demerara, made an attempt, in 1823, to escape in a boat to the Spanish main, and having been pursued, fired upon the party sent in quest of them. They were, however, ultimately captured, and being tried by a general court-martial, were each sentenced to receive 1000 lashes. Before the proceedings of the court-martial were confirmed by the General Officer at Barbadoes, the regiment was transferred to St. Vincent's. The Commanding Officer of the regiment, Lieutenant-Colonel L——, who appears also to have been the senior officer in St. Vincent's, determined upon carrying the sentence into effect regimentally, instead of upon a garrison parade, when a Staff Surgeon would have been directed to attend. The regiment was then under the medical charge of Assistant-Surgeon F——, who attended the punishment. On the morning of the day when the men were to be punished, the Lieutenant-Colonel was reported sick, and the command of the parade devolved upon Captain A——. The punishment was carried into effect on the 5th February, 1824, and each delinquent received the whole amount of his sentence, namely, 1000 lashes.

Three other men were punished at the same time. Both of the men in question died, the first, on the 7th February, apparently in consequence of collapse; the second, on the 14th, after a fit of ague; sloughing commenced on the 12th, and by the following day the whole of the back and loins had become involved. The backs of the men were not much cut. Both of them had been previously delinquents, and they were sentenced

to remain for life in the West Indies, in which station they had served nearly twenty years. The other three punished men did well.

The fatal issue of the above cases having been reported by the Staff Surgeon at St. Vincent's to the Inspector-General of Hospitals at Barbadoes, he forthwith officially recommended that Mr. F—— should be removed from the army. He stated in his communication, that although 1000 lashes may be awarded by a general court-martial, it is never expected that the whole should be inflicted in a warm climate; and that to stand by and see 1000 lashes inflicted on men who had served long in a tropical climate, evinced great want of feeling and judgment; it betrayed, he added, neglect or ignorance, or both, to a considerable degree.

The Inspector-General admitted that Mr. F——'s former services and character were creditable, and that perhaps it would be unfair to dismiss him for what he might call an error in judgment; but still the Inspector thought it right to do so, for the purpose of depriving him of the power of committing a similar error. It seems never to have struck him that by admonishing and instructing Mr. F——, he might, in all likelihood, have as effectually obviated a similar untoward result, as by dismissing him from the service.

Mr. F—— was ordered to proceed to England, there to await the decision of the Commander-in-Chief, and during the month of June, 1824, he was removed from the service.

Mr. F—— having been dismissed without being heard in his own justification before a court-martial, I take leave to subjoin the following desultory observations.

No one doubts the right of the King to dismiss any of his officers from the service, without offering any motive except his own will; but it must be admitted that this power may be used without sufficient examination, and consequently without that thorough understanding of a case which cannot be otherwise obtained, except by fully hearing all parties. Mr. F—— had entered the service in 1815, and remained an Hospital-Assistant until May 1822, when he was promoted to the rank of Assistant-Surgeon, and attached to the regiment in question. An officer of the rank of Hospital-Assistant was seldom required to be officially present at a punishment parade, and as Mr. F—— may not have joined the regiment more than a few months, when he was present at the punishment of the above-mentioned two men, he may perhaps have had little or no practical experience of the duties of a medical

officer when corporal punishment is inflicted. The duty, in fact, may have been quite new to him, and hitherto no instructions have been issued for the guidance of novices in that important branch of a medical officer's duty. He was no doubt present officially when the two men were punished, which punishment unfortunately proved fatal in both cases ; but although—

It is generally supposed that the surgeon who is present at a military execution is responsible for its consequences, this is not legally true, and it is physiologically impossible : the punishment is too uncertain in its operation to allow of any medical officer ascertaining the boundaries of danger. \* \* \* \* No surgeon can answer either for the ultimate or immediate consequences of this species of corporal punishment. He may indeed err on the safe side by interposing as early as possible, but there is no criterion by which he may be guided in forming an absolute opinion on the danger or safety of the punishment.—(*Paris and Fonblanche*, vol. iii., p. 149.)

Let a medical officer bear in mind, whatever his sentiments may be concerning the nature of the punishment, that he has nothing to do with the merits of the case ; and if the prisoner is able to endure the award, he has no business to stop the course of law or justice. If he gives way to his feelings once or twice, he will find himself unpleasantly situated, unless he can shew satisfactory cause for his interference.—(Dr. J. Gordon Smith, *Forensic Medicine*, p. 403.)

A medical staff officer of my acquaintance, who, in the opinion of his Commanding Officer and the officers of the garrison, was too ready to recommend suspension of corporal infliction, came to be considered in some degree a nuisance on the station. He was ultimately removed to another garrison, in consequence of his being thought an impediment to the service. I have elsewhere stated, that medical officers whose feelings were easily excited at a corporal infliction were sometimes temporarily superseded, and others, deemed more efficient, directed to attend. It may also be stated, that some authorities allege, that large punishments have been, and by implication may be, inflicted with impunity. "I have seen," says Dr. Gordon, "1000 lashes received without complaint, and the back healed so rapidly that in about ten days the patient was dismissed cured." He adds also, that "the apprehension which prevails as to the risk and cruelty of corporal punishment is, in a great measure, imaginary." Such statements, made by an old experienced officer, are calculated to induce an officer but little acquainted with this branch of duty to consider the infliction of a sentence of 1000 lashes as attended with little danger.

The fact is, as Sir Charles Napier states, that medical officers are placed in a most unfair and perilous position ; the danger to

which the life of the culprit, and the commission, or life, of the surgeon are exposed, being a powerful objection to corporal punishments. Whether the medical officer leans to the side of lenity, or to what is considered severity, he is liable to be blamed ; and there is no well-defined line between these extremes, by which he may be guided in the conscientious execution of his duty. A man's ultimate efficiency, or life, may be endangered by the infliction of a comparatively small, as well as by a large punishment ; and it may be stated, as a remarkable fact, that the fatal cases on record have, in most instances, been the result of very moderate inflictions, some even under 200 lashes.

I will conclude my notice of this case by observing, that if Mr. F—— had been heard in his own defence before a court-martial, he might have been still a medical officer. He had no rule for his guidance but the common practice, which, in all probability, he followed according to his limited experience, and the best of his judgment ; under such circumstances it is humbly submitted, whether an individual instance of alleged error of judgment ought to be selected for punishment, unless it could be shewn, that it was more heinous than those which were commonly overlooked.

It may be asked, if it was never intended to inflict 1000 lashes in a warm climate, for what purpose was such a sentence awarded ? The intention of the court-martial is known only by the sentence they pronounce ; a medical officer has, at any rate, no other opportunity of becoming acquainted with it. He has no means of ascertaining their unofficial opinion, so as to be, in some measure, guided by it in the execution of his duty upon a punishment parade. When the *Code Pénal* was under discussion, it is stated that Napoleon expressed an opinion, that the laws ought to be concise, and leave much latitude to the judges and the Government in the application of the penalty, “*because*,” said he, “*men had feelings of compassion unknown to the law.*” The members of courts-martial always had abundance of “latitude;” but, in the exercise of their duties as judges, how often did their arbitrary sentences evince a want of the “feelings of compassion,” a disregard of the principles of equity and utility, which should regulate the infliction of all punishments.

The chief causes of the tragedy in question were, first, the vicious system which then prevailed, of fixing no limits to the sentences of general courts-martial ; and secondly, to the barbarous usage of awarding punishments which were obviously calculated to

endanger life. As it appears to have been deemed expedient to sacrifice one of the individuals concerned, upon the altar of public opinion, it is not clear to me, that the Assistant-Surgeon had any very peculiar claims to be selected as the victim. Since the above was written, I have been informed that Mr. F—— never attended a punishment parade at the head-quarters of the regiment of which he was Assistant-Surgeon, until the 5th February, 1824, the day when the two delinquents in question were punished.

Where, it may be asked, is a medical officer, who is anxious to perform his duty correctly on a punishment parade, to seek for information and guidance? This branch of his duty is not practically taught in public hospitals, and he can hardly be expected to acquire the requisite information by instinct, or from works not in existence. Captain Basil Hall observes, that the tendency of strict discipline, such as prevails on board ships of war, and, I may add, in the army, where almost every act of a man's life is regulated by the orders of his superiors, is to weaken the faculty of independent thought. This partial surrender of moral agency is not confined to the purely military branch of the army; it extends, occasionally, to the different ranks of the medical department, and what effect deference to the wishes of an imperious superior may have on the judgment and discretion of a medical officer, young in years, limited in experience, and without much firmness of purpose, I leave my readers to form an opinion. Instructions upon this subject, to be effectual and uniform, should emanate from authority, and ought to comprehend the duties, not only of the military, but also of the medical branch of the service. Unofficial recommendations or suggestions would do little or no good.

The other example is extracted from Dr. Hamilton's *Duties of a Regimental Surgeon considered, Second Edition, 1794,* vol. ii., p. 65.

Should a man (says the Doctor) die in consequence of over-punishment, I am certain the Surgeon might be tried by the laws of his country for his life. Such an accident, some years ago, did unfortunately happen in a regiment quartered in the West of England, where a man died in consequence of punishment. The Surgeon, too easily, yielded up his prerogative, and forgot he was responsible, until his country called upon him to answer for his conduct. He was tried at the succeeding assizes for the county, and though acquitted, from several circumstances that appeared in his favour, yet he never spoke on the subject without considerable emotion, as I know, from my acquaintance with him afterwards; it cost him not only much anxiety of mind, but great expense, and the hazard of his life. An enraged multitude sought him in every

corner; but a precipitate flight to another kingdom prevented them from discovering him. Had he been found while their ferment continued, they would have taken the law into their own hands, and not waited for the verdict of a jury. Happily for him the assizes were at several months' distance, and the minds of the people had time to cool, before he appeared on his trial, which his friends thought it highly expedient for him to do.

In the performance of their duty, with respect to punishment, medical officers may not only incur the heavy penalty of being dismissed, or of being tried by the civil law for murder, should a case terminate unfavourably; but they are also liable to the resentment of individuals. Early in 1828, a private belonging to the — Regiment was tried and flogged for desertion. On being untied he was scarcely able to stand; he staggered forward as if he had lost his sight, and his features were fixed and death-like. He gained strength as he proceeded, and cast off the proffered arm of the guard that conducted him to the hospital. He was followed by the medical officer, who was certainly no favourite with the men. The punished man saw him, and stopping short, fixed his eyes upon him. "Doctor," said he, in a composed though hollow tone, "why didn't you order me to be taken down before I got all? You saw I was not able to bear it as I used; if I was, I would not have expected it. You didn't, Doctor, and you ought; but if you saw my liver through my bare ribs you would not. I know you, Doctor, and I would have you take care of me." "Move on, men," said the medical officer. "Get along, Sir, how dare you speak to me?" He was marched to his ward, and the medical officer followed, and dressed his back. "All right," said he; "lie down on your back." The words had scarcely passed his lips, when the punished man jumped from the bed, and with one blow knocked him senseless to the other side of the ward. He then made a rush to leap upon him, but was seized by the orderly and Hospital-Sergeant.

"The subject of the above case, P. O'N.," says my authority, who served in the same regiment with him, "from being looked on as a quiet, sober, well-conducted, young man—from being esteemed by his superiors as an intelligent and respectable non-commissioned officer, was literally flogged into the most hardened ruffian that ever wore a red coat. He abandoned every sense of self-respect, and flung propriety and good conduct to the winds, as if they were of no use to him—as things he had no more to do with."

The most common events that happen at the commencement or during the early stage of the punishment of a man by flogging,

are feigned or real fainting or convulsions. In some instances, the simulations of fainting or convulsions are sufficiently obvious ; but in others, the causes of the symptoms are by no means free from doubt. Some men become faintish at the sight of the triangles, even before they are tied up, apparently from a peculiar nervous sensibility ; I say, peculiar, because the same men may conduct themselves, on occasions of danger, with great firmness and self-possession. I have seen a soldier faint upon his arm being tied up for the purpose of being bled—the view of the lancet completely unmanned him. Nay, more ; the mere dread of the degrading punishment of flogging appears to have extinguished life. A youth who had just left the plough-tail, and who belonged to the army of reserve, was selected to do duty with the — Regiment, then stationed at Plymouth. On his slop clothing being issued to him, he found, on examination, that the buttons were marked with the number of a regiment ; he thought that if he wore the coat, with the buttons in question, he would be a *regular* soldier, and this became so deeply impressed upon his mind, that all persuasion failed to convince him to the contrary. His conduct being considered next to mutiny, he was tried by a court-martial, and sentenced to receive 500 lashes. He was actually tied up, and would, no doubt, have been flogged, had he persisted in refusing to wear the button. The calm reasoning, however, of General ——, together with the horrible and degrading position in which he was stretched out, constrained him to yield. He was then taken down from the triangles without receiving a lash, but, being much indisposed, was conveyed to the hospital, where he soon after expired.

The sight of punishment has sometimes a remarkable effect upon young officers and recruits, which is, occasionally, so powerful, as to produce physical weakness and fainting. The Commissioners on Military Punishments state, that it is difficult to say, whether this effect arises from disgust or terror ; but they infer "that such circumstances cannot arise without a very strong impression being made upon the mind, and that, from that impression, must be derived a confident hope of the efficacy of the example presented to the eyes." The "confident hope" of the Commissioners is, I believe, completely fallacious. The failure of physical strength in commissioned officers, is not likely to arise from terror ; nor does it appear to be a salutary influence on the minds of the men. Fainting is often produced without any strong mental conviction, being frequently occasioned by a kind of

instinctive nervous impression, arising from a view of certain objects, such as the sight of blood, of a corpse, or a surgical operation. The feelings may be affected without any useful or lasting impression ; for example, men have been known to weep at a tragedy, who, in the affairs of life, were noted for a ruthless disregard of their duties, or the feelings of others.

As a useful hint to young medical officers, I have subjoined, in detail, an instructive case, copied from Dr. Bell's work on the diseases among soldiers in the West Indies.

A private soldier in the 5th Regiment had been repeatedly sentenced by a court-martial to be punished for theft ; but the punishment of flogging had always been changed for that of confinement, as, on the instant he was brought to the halberts he was attacked with convulsions ; and the medical gentleman who attended, thinking it not proper that in those circumstances the punishment should be inflicted, the man was released.

He was again convicted of stealing, and again sentenced to be flogged. At this time Dr. Bell attended his punishment.

These convulsive fits (says Dr. Bell) were either feigned or real ; but in either case it was deemed proper that the punishment should go on. If they were feigned, the pain of the flogging would soon put an end to every exertion of artifice ; and, if they were real, it appeared probable that severe pain, to which he had not been accustomed, and the operation of terror on his mind, at the time the fit was approaching, might prevent the attack, and, by breaking the habit, might prove a useful remedy. I never had seen him in any of these fits ; but I was informed that he was frequently attacked by them when guilty of any irregularity, and consequently was sent to the hospital instead of the guard-house. On the morning of his punishment I informed him, in presence of the Sergeant of the hospital, and of another person, that the Commanding Officer was determined to inflict every lash, although death should be the consequence, and that I would on no account interfere in having him taken down. He was told, that if he *dared* to fall into fits, the Sergeant and my servant had orders to burn him to the bone with red-hot irons, which they kept ready heated for the purpose in the mess-kitchen, at the door of which he was punished. While the drummers were tying him to the halberts, I placed myself opposite to him, and his eyes were steadily fixed on mine. His countenance was marked with the strongest symptoms of terror, which was not lessened by turning his head towards the door of the kitchen, where he saw a person prepared, as he thought, for the purpose of which he had been informed. He firmly believed that what had been threatened would be executed. The punishment went on,—the pain it occasioned was almost forgot in his apprehension of that which he more dreaded. He received 300 lashes ; and while I remained in the regiment I never heard of his being attacked with any convulsive disorder, nor of his being tried by a court-martial for his old crime.

Dr. Bell leaves the nature of the case still doubtful, and concludes with the following expression—"Whether the fits were real or feigned, impressing the mind with terror produced the effect that was desired."

The following case was obviously feigned:—A soldier belonging to the — Regiment was brought to the halberts to receive punishment. He became apparently convulsed; and the medical officer, believing he had been attacked with epilepsy, recommended that he should be taken down. He was again brought out for punishment, when his frame became greatly agitated, which gave rise to a belief that he again suffered under an epileptic paroxysm. A third time he was brought to the halberts, when convulsions came on. The medical officer, presuming that the symptoms of epilepsy were occasioned by fear, was proceeding to the Commanding Officer, for the purpose of stating that the man was unfit to receive punishment, when, by accident, he happened to look behind him, and saw the eye of the delinquent watching his motions. This circumstance convinced the medical officer that the symptoms were feigned, and the delinquent received his punishment without further delay.

Pain, but especially pain which is inflicted or imposed as a chastisement, frequently excites fainting, or *deliquium animi*; and when this takes place it becomes highly expedient to arrest the infliction of punishment. When syncope, or fainting, occurs during a surgical operation, I believe it is the ordinary usage of surgeons to cease operating until the patient is restored. But a man under punishment is liable to a partial *deliquium animi*, or fainting, during which it has been recommended (and it is, I suppose, usual) to permit the punishment to go on during some seconds of impaired sensibility. In the slighter cases, therefore, of *deliquium* the punishment need not be interrupted; indeed, the stimulus of flagellation frequently restores the sufferer to himself. If, on the other hand, the *deliquium* continues, and a man cannot be roused in a few seconds, if he perspires much, and if the pulse at the temporal artery becomes weak, or scarcely perceptible, he should be forthwith taken down.

I never considered it expedient to examine the irritability of the iris, as is sometimes recommended in doubtful cases, being always satisfied with the conclusions which might be drawn from the above symptoms. Should a man recover instantly, the medical officer is sometimes supposed to have been unnecessarily cautious,—imposed upon, in fact. This conclusion he may occasionally

expect, but not often ; for to witness the flogging of a man is, I believe, in general very painful both to officers and men,—the infliction of bodily pain, as a punishment, under whatever name the operation may be executed, having very much the appearance of torture ; consequently, officers in general are pleased to see the infliction brought to a conclusion. Some officers, who in the exercise of their duty are obliged to attend punishment parades, frequently turn their eyes from the sufferer, and obviously shew, by their looks and gestures, that they are disgusted with the exhibition. In complete fainting the delinquent becomes unable to stand erect, the muscles of his limbs lose their power, and he hangs by the hands from the top of the triangles.

It need hardly be observed, that as long as a man exclaims and shrinks from the lash, a medical officer may be satisfied that there is not much tendency to fainting.

So long as it was customary to inflict second punishments medical officers were, from motives of humanity, much disposed to allow a man to receive the whole of the punishment which the court-martial had adjudged, at once, or, at any rate, as much as he was able to bear, in the hope that the remainder would be remitted. Soldiers who received to the extent of two-thirds of the sentence awarded were seldom “brought out” to receive the remainder. The sentence was, however, not always remitted ; it was allowed to *hang over* them, so that the Commanding Officer might inflict the balance due when it pleased him to do so. Dr. Hamilton has very graphically described the cruel consequences of second punishments.

Let us suppose (says he) that a man is taken down at the end of 250 or 300 lashes, and that his sentence was 1000, all of which he must receive, whether at two, three, or more times, before he is released from confinement. Let us suppose he is conveyed either to the guard-house or hospital, is daily dressed till the wounds are healed, and a new cuticle formed, which may be in a month or five weeks. He is now become able to wear his clothes, yet perhaps scarcely able to suffer the weight and friction of his cross-belts, or the pressure of his haversack, —the parts are as yet red and tender; notwithstanding, he is ordered a second time to the halberts, and at the end of 200 or 300 more is a second time taken down, cured as before, a third time brought there, and so on till the whole judgment is inflicted.

An elaborate expounder of martial law and military usages expresses himself as follows in regard to second punishments under one and the same sentence :—

Every Commanding Officer (says Major James, author of a *Military Dictionary*, and several other military works) has a discretionary

power vested in him to remit the whole or part of the punishment which may have been awarded against a non-commissioned officer or private soldier by the sentence of a regimental court-martial; but no such power is vested in him when the King's approbation (and I presume I may add that of his authorised representative) has sanctioned the execution of any sentence given by a general court-martial.

However the culprit may suffer on such an occasion, or have his punishment discontinued through the report of the surgeon, he must again be brought out to receive the remainder of the lashes; and should he expire before the *bona fide* complement of the sentence, it must be consummated upon his lifeless and mutilated carcase.

We cannot omit (says our author) mentioning in this place that the instant a military culprit receives a lash the surgeon becomes responsible for his life.—(*Regimental Companion, Seventh Edition, 1811, vol. ii., p. 466.*)

I remember attending the punishment of a man belonging to the — Regiment, in 1808, who had been tried by a court-martial, and convicted, in consequence of having a small piece of black muslin spread over the ball of the left eye and under the eye-lid. He had previously lost the sight of his right eye. He was sentenced to receive 1000 lashes in the usual manner, and at such *time* or *times* as the Commanding Officer might direct. He was taken down upon having received about 250 lashes. After being cured he was again brought out to receive the remainder of his sentence. The first few lashes tore open the new-cicatrized skin so much that his back became instantly covered with blood, which flowed downwards under his clothes. He was taken down before he received forty lashes. The second punishment was a most painful one to all who witnessed it; and I believe the disgusting exhibition was not in his case repeated.

The infliction of pain, without long disabling a man for duty, or endangering his life, being the immediate object of flogging, I am disposed to ask whether that intention would not be amply attained by employing a cat with one tail instead of one with nine tails. The pain inflicted by one cord would be severe enough, perhaps nearly as severe at the moment as with nine cords, while the ultimate injury and danger would be much less.

Dr. Hamilton gives the following account of a case of second punishment, similar to the one above mentioned, which came under my own notice:—

Hall (says he) was sentenced to receive 500 lashes for house-breaking; he got 400 of them before he was taken down: and in the space of six weeks was judged able to sustain the remainder of his punishment, as his back was entirely skinned over. The first twenty-five lashes of the second punishment tore the young flesh more than the former

400, the blood pouring at the same time in streams. By the time he got seventy-five his back was ten times more cut by the *cats* than with his former 400,—so that it was thought prudent to remit the remaining twenty-five, and take him down. Hall declared that his first punishment was trifling to what he suffered by the second. Other examples might be added, (says Dr. Hamilton,) but to multiply cases of this kind is disagreeable.

Some men suffer much more than others from the same amount of punishment, more especially persons of a sanguine temperament, with red or fair hair, and a tallslender frame of body.

Edwards, in the end of 1781, was sentenced to receive fifty lashes. He had got drunk, and otherwise misbehaved. In the army, this number is accounted next to nothing. So much, however, did this small punishment affect him, that, notwithstanding every degree of attention to this case, it was upwards of three months before he could bear his cross-belts, or even move his arms to work. Perhaps fifty more would have placed his life in most imminent danger. He was of a thin, tall, genteel shape,—his hair black but soft, woolly, and thin on his head, with a skin remarkably white and smooth.—(Hamilton, vol. ii., p. 40.)

The effects of flogging are so different in individuals, that, although every attention is paid to the probable strength and constitution of soldiers by medical officers, untoward symptoms will sometimes follow.

Henley, for desertion, received 200 lashes only; acute inflammation followed, and the back sloughed. When the wounds were cleaned, and the sloughed integuments removed, the back-bone and part of the shoulder-bone were laid bare. I never had seen so much of the muscular parts destroyed in any case from punishment before. \* \* \* \* It was upwards of seven months before he was so far recovered as to be able to do his duty.—(Hamilton, vol. ii., p. 44.)

In 1806, I recollect having to dress two similar cases of sloughing from punishment, in the regiment to which I belonged. One man died, the whole of the muscles of the back having sloughed, and the other was never fit for duty, and required to be invalided.

Hamilton mentions the case of a man who died at the halberts. “Lately, in England, not far from the metropolis,” says the authority he quotes, “a soldier received 400 lashes; he scorned to flinch for some time, till by a repetition of stripes he groaned and died.” Fever and sloughing of the back are the consequences of flogging which are most to be dreaded. Junius, in a note to his celebrated letter to the King, (15th November, 1769,) shews the partiality which is exercised in favour of the Guards, in strong terms, and then observes as follows:—“So much for the

officers. The private men have 4*d.* a day to subsist on, and 500 lashes if they desert. *Under this punishment they frequently expired.*"

With the view of demonstrating to medical officers of the army the great necessity of being extremely discreet and cautious in the discharge of this painful and unpleasant part of their duty, Staff Surgeon Burmester published, in 1807, (*Edinburgh Medical and Surgical Journal,*) the case of a man who died in consequence of what was considered a mild punishment. He was stout and healthy, twenty-eight years of age, subject to no constitutional disease, and for a considerable length of time previous to his punishment had enjoyed perfect health. He was sentenced by a court-martial to 800 lashes, and received 250, which he bore with a manly resolution, and was taken down, the remainder of the sentence being remitted by the Commanding Officer,—not, however, from any appearance that he could not have borne a considerable number more without incurring the smallest danger. Fever appeared on the second day after the punishment, which was followed by inflammation and sloughing of the back; on the twentieth day there was scarcely an inch from his neck to his loins free from disease: and he continued to languish until twenty-four days from the time of his punishment, when he expired. This case happened in the Mediterranean; and other men, who were punished with him, and to a more considerable extent, recovered in the ordinary time. The unhappy result of this man's case could not, in Mr. Burmester's opinion, be in any material degree attributed to an unhealthy climate.

In such a punishment as flogging, accident will be sure to assist the intrinsic rigour of the system, oversight will conspire with design, and congenial circumstances will develop strict discipline into cruelty. Startling results serve to arrest the attention, and prove the general character of corporal punishment as a means of enforcing discipline.

It may be observed, that in practice the attendance of a medical officer at a punishment parade is more calculated to prevent a man from escaping the amount of infliction to which he has been sentenced, than to meliorate and reduce the severity of punishment. His professional knowledge is employed to detect whatever latent principle of life a man possesses, which may enable him to undergo the sentence awarded. It has been stated to be "less necessary to dwell upon motives of humanity and discretion, than to caution military surgeons against attempts which are sometimes

made to deceive them by soldiers feigning complaints to evade punishment, and feigning syncope or fits during its infliction ;—to caution them also against any untimely or undue interference with the discipline of the service, or any vain parade of authority in the only case in which their authority can be considered as at all paramount to that of the Commanding Officer."

I may here observe, that the authority of a medical officer is on no occasion paramount to that of a Commanding Officer ; he has, in fact, no military authority whatever. Medical officers are, in regard to choice of quarters, to be classed with other ranks ; but this *indulgence* is not to give them any claim to exercise command.

Dr. Hamilton informs us, that he had seen several cases of partial or temporary loss of power of one or both arms, resulting from flogging. I have met with only one case of this kind,—the right arm having become paralytic, on which account the man was discharged.

When an unusual degree of tumefaction of the back takes place during punishment, a delinquent should be taken down, as this symptom is frequently followed by long-protracted disease.

Bombadier Alexander incidentally mentions a case of this kind in his *Memoirs*.

In 1803, at Chatham, a private of the 9th Regiment having been found asleep on his post, was tried by a court-martial, and sentenced to be flogged. The soldier was a fine-looking lad, and bore an excellent character in his regiment. The officers were much interested in his behalf, and it was said they endeavoured to prevail upon the General in command to give his case a favourable consideration, but without success. All the troops were assembled to witness the punishment ; and during the infliction I saw the Drum-Major strike a drummer to the ground for not using his strength sufficiently. The man's back became black as the darkest mahogany, and greatly swelled. He was taken down at the recommendation of the medical officer, after he had received 229 lashes, and sent to the hospital, where he died in eight days, his back having mortified. I have witnessed 700 lashes inflicted, but I have never seen a man's back so black and swelled.

I have already stated, that extensive sloughing of the back occasionally occurs from flogging, notwithstanding the utmost care on the part of a medical officer.

Burck (says Dr. Hamilton) had so great a discharge from his back, accompanied with a smell so great, that though a more than ordinary robust man, it made him extremely faint and uneasy ; he complained more of this than of the pain he suffered, yet he was carefully

dressed and washed twice a day, and for some time shirted once every day.

Dale was punished for stealing, and smelled so offensively, though the greatest attention was paid to dressing and washing his back, as well as to changing his linen; and so great effect did it produce on his health, that he fell into a fever, and narrowly escaped with life. He was removed to a ward by himself, the smell being extremely offensive to the other patients. From the putrid smell of his sores, it was no easy task to dress him; and such was the precarious state of his health, that I durst trust it to no one but myself.—(Vol. ii., p. 60.)

In cases where great ulceration and sloughing occur, the cicatrix is long, and, in some cases permanently, so sensible and tender, as not to permit a man to wear his cross-belts, or at any rate to carry his knapsack. I have seen a soldier permanently disabled for duty by this, and rendered unfit for the service. It is alleged by persons who have witnessed much flogging, that the back becomes callous by frequent corporal punishment—which is probably occasioned by the repeated effusion of lymph.

By frequently punishing offenders, (says Dr. Williamson,) the parts become insensible to that laceration which tears up the skin. When that barbarous consequence is arrived at, its infliction becomes a matter of indifference to the unfortunate negro; and new sources of *torture* must be found out by which the commission of crime may be checked. It can scarcely be necessary to add, that such a condition of torpor in the parts to which punishment has been applied, can never be justified on any pretext; and I blush to reflect that white men should be the directors of such disgraceful deeds.—(*Observations relative to the West India Islands, 1817.*)

Dr. Williamson had peculiar opportunities of acquiring information on this subject, having resided in a medical capacity during fourteen years upon different plantations in Jamaica.

Allowing that few or none die, which (says Dr. Hamilton) I believe to be the fact, immediately from punishments moderately inflicted, I know, from experience in the service, that constitutions have been considerably impaired by them. We sometimes find the body melt away into a spectre of skin and bone, from the large suppurations that have followed; nor were they ever afterwards, as long as I knew them, able to bear the same hardships as before; and they must from thence also be more incident, not only to contagious diseases, if they be in the way of them, but to other complaints to which fatigue or hardships of duty may expose them.—(Vol. ii., p. 56.)

Dr. Kirckhoff makes a similar observation in regard to the use of the *cane* in the army of the King of the Netherlands:—

The punishment of the *cane* (says the Doctor) is injurious to the health, for it may occasion spitting of blood and inflammatory affections

of the chest, followed by consumption and death. I have seen men expire immediately after the punishment, and even during the infliction.

Sergeant Armstrong, who was flogged to death by the orders of Governor Wall, passed blood constantly after his punishment, both by urine and stool; and the Surgeon stated also, that he had an asthma from the extraordinary absorption of the blood.

Sir Henry Hardinge bears strong testimony in regard to the injurious effects of the Portuguese mode of punishing military delinquents.

Punishment (*says Sir Henry*) was inflicted by a Corporal seizing the culprit, and striking him with the flat of the sword upon the back. It was necessary to be done with the utmost caution, for it affected the chest so severely, that sometimes consumption and lingering complaints were the consequence. It bruised the body, and frequently led to spitting of blood, and very serious complaints.—(*Evidence on Military Punishments*, Quests. 5657 and 5658.)

Sir Henry commanded five Portuguese battalions in the Pyrenees, on which account his attention was peculiarly directed towards the hurtful consequences of this mode of punishment.

The proper end of human punishment (*observes Paley*) is not the satisfaction of justice, but the prevention of crimes. By the satisfaction of justice, I mean the retribution of so much pain for so much guilt.

The chief design of punishment being therefore to prevent the commission of crimes, not to avenge wrongs, if this can be obtained the end of the law is accomplished. And may not that be as effectually done by moderate as by excessive severity? To reform delinquents, and to deter others from committing crimes, being the true object of the military law, it is presumed the punishment of offenders should be such as to give temporary pain and anxiety, but to carry no lasting infamy with it, other than the reflection of having been punished,—a punishment, in short, which repentance might obliterate. The ignominy connected with corporal punishment, but especially the brand of infamy which results from an ulcerated back, is an indelible and fearful consequence of flogging.

Great melioration of the penal laws and usages of the army has taken place since 1812; and the general state and conduct of the troops have proved the safety and policy of the alteration. I sincerely hope that “the improvement will be extended, and that the

army will not long be subjected to a degrading and barbarous torture, from which less moral men and much worse soldiers are exempted in every service in Europe."

Previously to concluding this part of my subject, I may express my cordial concurrence with the sentiments which Dr. Hamilton published fifty years ago, in his chapter on military punishments. "*I wish,*" said he, "*after all, the military laws knew no such thing as flogging, and that in place thereof some other mode of punishment could be devised less ignominious. On this head, however, I dare say nothing, it is out of my line of life, though I wish it, with all my soul, abolished, as an inhuman thing, more suiting the nature of savages than civilized and polished nations.*" Indeed, I feel confident that in a short time flogging will be very little resorted to in the army, that it will in fact fall into disuse, and that people will lift up their hands and wonder, as we do now in regard to some of the former barbarous punishments, that it has been tolerated and practised so long.

Were it demonstrated that flogging is sufficient to deter soldiers from the commission of certain crimes, and that other means of prevention, after an adequate trial, are insufficient, then perhaps it should be inflicted in a limited degree; but if it does not effect the above object, then it ought to be completely abolished, the only legitimate ends of punishment being to prevent the delinquent from repeating the crime, and to deter others from imitating it.

The usual defence of the punishment of flogging by military officers, rests wholly on the assumption that it has the effect of preventing crime and sustaining discipline, and is superior to every other remedial means for that end. Degrading punishments very rarely produce contrition and reformation.

There is not an instance in a thousand (says Dr. Jackson) where severe punishment has made a soldier what he ought to be; there are thousands where it has rendered those who were forgetful and careless, rather than vicious, insensible to honour and abandoned to crime.

The reformation of a delinquent should be the motive of all penal inflictions of a secondary character. Let reformation be recognised as a primary object in all punishments, and we shall have good security for the adoption of humane and judicious measures. Should the allegation of the Rev. Robert Hall in regard to the trade of war be well founded—and, perhaps, it is much too true—great care should be taken to promote good

conduct, and to repress vice in the army. “*War*,” says he, “reverses, with respect to its objects, all the rules of morality. It is nothing less than a temporary repeal of all the principles of virtue. It is a system out of which almost all the virtues are excluded, and in which nearly all the vices are incorporated.” A State which contracts for the minds and bodies of men for an unlimited period, and which leads them into the temptations incident to a military life, becomes in a great measure responsible for their temporal and eternal welfare. Having surrendered their independence for life, and sworn unconditional obedience to their superiors, soldiers have a strong claim to become the adopted children of their country, and to be treated accordingly. The State has no doubt a right to command, but it has also important duties to perform—duties which comprehend the means of promoting the efficiency, the welfare, and the happiness of the army.

*Whipping or Flogging in Civil Jails.*—Soldiers are liable to be whipped for delinquencies committed in civil jails. In Maidstone jail, for example, it has sometimes been deemed necessary to flog privates for breaches of prison discipline.

A person convicted of certain crimes may, if a male, be sentenced by the statute law of England to be *once, twice, or thrice*, publicly or privately whipped, in addition to such imprisonment as the court shall think fit to award.

Public whipping has, I believe, completely fallen into disuse, both in England and in Scotland. Private whipping appears to be a very undefined punishment, the keepers of prisons having, in practice, nearly absolute power in the execution of this sentence, by which means the mode of infliction varies greatly in different jails. In some, it is alleged that the whipping of prisoners is carried to a great extent of severity, from eight to ten dozen lashes being occasionally inflicted, in others not more than ten or twelve, and with a lightness that makes the sentence nominal. The cat-o'-nine tails, or instrument of infliction, also varies greatly. In some prisons, the cat or scourge in use is similar to the instrument employed in the army, in others to that employed in the navy, while delinquents are punished in some establishments with an instrument like a common school rod. The punishment is inflicted in some prisons the day previous to a prisoner's discharge—a circumstance which obstructs moral improvement, and adds greatly to the numerous obstacles which lie in the way of a man in such a situation finding employment. While the infliction of

flogging is hanging over a prisoner, he is little disposed to form good resolutions. He appears to feel that corporal punishment immediately before his discharge is unjust, and with a foreknowledge of the consequence of the whipping on coming out into the world, he steels his heart for the occasion, and goes forth from the prison a hardened sinner.—(*Sixth Report on Prisons, Northern and Eastern District.*)

The authors of the *Seventh Report of the Commissioners on Criminal Law*, seem much disposed to reject flogging altogether, considering it “*a punishment which is uncertain in point of severity—which inflicts an ignominious and indelible disgrace on the offender, and tends to render him callous, and greatly to obstruct his return to any honest course of life.*” “By the discipline of *blows*,” as has been observed by Dr. Caldwell, “no moral or intellectual faculty is cultivated.” It may, however, excite resentment, hatred, and revenge; and if it should for a short period deter from crime, it awakens no disrelish for it.

*Imprisonment.*—By the Mutiny Act, sect. 7, a court-martial may sentence a soldier to imprisonment, solitary or otherwise, and with or without hard labour, in any public prison, or other place which the court may appoint, for “*immorality, misbehaviour, and neglect of duty.*” Every non-commissioned officer or soldier sentenced to imprisonment by a court-martial, forfeits all right to any pay, from the day of his commitment, during the time of his imprisonment. But a jail allowance may be drawn from Government by a proper certificate, shewing that the sum charged, not exceeding *6d. a day*, has been actually and necessarily expended upon each prisoner.

Soldiers have been sentenced to be imprisoned for periods extending from three to 1460 days on foreign service, and from three to 1826 days on home service.—(*Vide Return*, prepared in accordance with the order of the House of Commons.)

It may be stated, that by the Vagrant Act, the punishment for incorrigible rogues is imprisonment till the next quarter sessions, hard labour for any time *not exceeding a year*, and in some cases the whipping of *male* offenders.

General and district courts-martial have the discretionary power of inflicting imprisonment without limitation, according as the court shall deem fit. Many reasons might be assigned for fixing a maximum term of imprisonment. Extreme severity, although allowed by the law, is perhaps rare in practice; but though the power be not abused, the law is still open to the objection that the

court is unnecessarily invested with an excess of authority, which is only tolerated because it is seldom, if ever, used. An indefinite extent of punishment, as may now be inflicted, operates perhaps less on the fears of the ill-disposed than the threat of a moderate but defined punishment would do, if attended with greater certainty as to its infliction. Indiscriminate sentences tend to confound the different gradations of guilt of which military delinquencies are susceptible, and which ought to be marked by the infliction of corresponding degrees of punishment.

The object of imprisonment, like other corrective punishments, is twofold—amendment and example; and as aversion to labour is the principal cause in civil life from which the vices of the poorer classes deduce their origin and continuance, confinement with hard labour is adopted as a means of reforming a propensity to indolence and dishonesty, and training to habits of industry.

In the army, however, disobedience is the principal cause of military offences, consequently the amendment expected by imprisonment is confined chiefly to an improved disposition in soldiers to obey their superiors. But imprisonment may do more harm than good: a place of confinement may become a school for insubordination and every kind of corruption, not only in civil jails, but also in provost prisons, such as the military prison in Dublin. “There is no vice,” says Mr. Livingstone, (*Penal Code of Louisiana*,) “that affects the mind, which is not imparted by constant association; and it would be more reasonable to put a man in a pest-house to cure him, than to confine a young offender in a penitentiary organized on the ordinary plan, in order to effect his reformation.”

*Solitary Imprisonment, Separate Confinement.*—There seems hitherto to have been no specific rule for the guidance of jailers and keepers of places of military confinement, in carrying this punishment into effect. The usual treatment of soldiers sentenced to solitary confinement in the Coldstream Guards, as described by Colonel M'Kinnon, is as follows:—

The prisoner is placed in a cell or black-hole: some black-holes are very dark, others may have light enough to read by. He is allowed plenty of straw, and two blankets, and more when required, together with his great coat. He is made to wash and shave every morning, and he is to walk for an hour, under charge of a sentry, in the morning and afternoon. The allowance of 6d. a day is given in bread and milk, or bread alone, (with water, I presume, *ad libitum*.) He is sometimes allowed a basin of soup out of his comrade's

mess in cold weather. His cell is carefully searched, to ascertain that he has no tinder-box, pipes, spirits, tobacco, or any food concealed. Every man has a Bible and Prayer Book, being part of his kit. In Portman-street barracks, all the cells *are dark*, and in Knightsbridge only one has light, and that scarce sufficient to read by.

Colonel M'Kinnon thinks, that to render solitary confinement effectual, the cell should be constantly dark, (a true black-hole,) and the prisoner on no account be allowed to walk out at any time, or to have any kind of recreation, neither should he be allowed a book, needle or thread, or anything with which he may amuse himself. The admission of light, Colonel M'Kinnon thinks, would at once take off the severest and most beneficial part of the punishment.—(*Evidence on Military Punishments*, Quest. 3884.)

The discipline of Carlisle jail may be detailed, it having been recommended as better than most, by Major Drought, 15th Foot.—(*Appendix to Report on Military Punishments*, p. 58.)

In that place of confinement the cell admits of but little light; the bedding is the same as in barracks, but no sheets allowed. At six in the morning the prisoner is visited by the turnkey, and marched into the yard alone, where he is allowed ten minutes for washing, and at which time he receives his allowance of *bread and water*. He is then marched back to his cell, from which his bedding has been taken. At half-past eight o'clock he is marched to chapel, where he sits by himself, and sees nobody but the clergyman. He returns to his cell, and is not visited till seven in the evening, when his bed is put back. Once or twice a week he gets half a pound of cheese: he is not allowed to see any one, except by order of his Commanding Officer.

Rigorous disciplinarians of the severe school appear to think that pain and reformation are the same thing, or at least cause and consequence, and that if sufficient of the former is inflicted, the latter will certainly follow,—an opinion which is obviously not well founded. Real improvement consists in a formation of better and purer principles, and a realization of them in the life and conduct,—a result which cannot be attained without self-respect, and without a prospect of some portion of happiness coming along with it. It is difficult therefore to perceive the wisdom of confining men long in a “black-hole,” a place where soldiers are rarely, if ever, reformed,—where the health of persons of a nervous temperament may be destroyed, the spirits prostrated, the intellect clouded, and the heart broken. All punishments are attended with serious evils, but none are so bad as those which have a tendency to destroy the mind, on whose

improvement we rest our hopes of instilling the principles of subordination.

Of all the punishments which are awarded by courts-martial, perhaps none strikes the mind of a soldier with so much terror as solitary confinement. Delinquents cannot contemplate without horror the prospect of being shut up in company with their own thoughts, oppressed as the mind must sometimes be with remorse. The state of inaction in which an energetic mind is placed by solitary confinement, is of itself a moral death.

Several officers have recommended that the allowance of 6d. a day for the subsistence of prisoners should be reduced even as low as 3d. a day, exclusive of washing, or such a sum as would allow the prisoner one pound and a half of bread only, with water, each day. "All men imprisoned or confined," says one Commanding Officer, "should be dieted on bread and water only."—(*Appendix to Report on Military Punishments*, p. 621.) Several other officers expressed a similar opinion.

On the 4th April, 1832, a General Order was published in Madras, containing regulations for the uniform execution of sentence of solitary confinement, consisting of fourteen paragraphs.

*Paragraph 4.*—As a general rule, the diet of prisoners under solitary confinement is to be restricted to *bread and water*, subject to such addition as the medical officer may at any time deem to be necessary.

Previously to the issuing of this Order, European prisoners under solitary confinement in the Madras Presidency received their usual rations, with the exception of spirits. Medical officers may recommend a change of diet; but even if their suggestion be attended to, the sum expended in the purchase of articles of food for a prisoner must in no case exceed 6d. a day.

The *congee-houses*, or prisons, in a station in Bengal are thus described in *Life in the Ranks*, p. 113:—"The congee-houses," says our author, "constituted a quadrangle of strong cells built in ranges one above the other, and were entered by means of balconies. Each cell was about eight feet high, and eight by six square; and confinement in this narrow space, joined to the overpowering heat of the climate, and scanty allowance of *bread and water* served to the inmates, rendered the punishment, in the case of a man labouring under the debilitating effects of arrack, equivalent to the sentence of death." A Sergeant who was immured in one of the cells lost his reason the first night of his

confinement : "he never recovered his senses, and death soon after put a termination to his sufferings." Two other non-commissioned officers were soon after confined in the congee-house, "one died from fever brought on by excessive drinking, and a broken heart terminated the existence of the other."

By the order of General Wolfe (1748-49), prisoners who were sent to the *black-hole* were to be allowed nothing but bread and water during their confinement, 2*d.* per day being allowed to the Sergeant of the Guard to provide the requisite quantity.

If I am rightly informed, convicted prisoners in military prisons are chiefly subsisted on bread and water; in the West Indies they receive bread and coffee, and in the East Indies bread and congee (rice water). In one of the garrisons in this country, the allowance of 6*d.* a day is expended as follows :—

	d.
Three pounds of Bread . . . . .	$3\frac{1}{4}$
Coffee and Vegetables . . . . .	$2\frac{1}{4}$
Washing . . . . .	$0\frac{1}{4}$
	<hr/>
	6 <i>d.</i>

No part of the allowance in this case remains for the purchase of articles of clothing, tobacco, &c. &c. Dr. Starke, who made the experiment of confining himself to a farinaceous diet, chiefly bread and water, lost about four and a half ounces by weight daily, and became affected with scurvy, together with cachexy, and a restless disquietude of mind. Eventually he fell a victim to his zeal in prosecuting his experiments on diet. Bowel complaints and general debility are frequent consequences of confinement and a uniform diet on bread and water, by which means soldiers are sometimes reduced in health and strength to such a degree, that when discharged from prison they require to be admitted into hospital to recruit their strength, being unable for duty. The consequences of confinement and inadequate diet take place among civil prisoners. "We continue," says the Surgeon to the hulks, "to receive from the majority of prisons in England, prisoners in such a state of debility from low diet, cold cells, and solitary confinement, that they are not, on arrival, capable of doing a day's work in the dock-yard, nor of undertaking the voyage to Australia."

According to the prison reports, it appears that the diet of prisoners in some of the civil prisons, where soldiers are confined, is far from being sufficient.

*Winchester County House of Correction.*—It appears to me, that *soldiers*, or others, placed in solitary confinement for a month, should receive a better diet than simple *bread and water*, and also, that they should be allowed to take a little more exercise daily in the yard. At present they go into the yard only for a few minutes in the morning.

In *Gloucester County Jail and Penitentiary*, those who are in solitary confinement for a fortnight, generally become emaciated and very frequently suffer diarrhoea, but then they have only a pound and a half of bread, and a pint and a half of mint water, during the day.

*Preston County House of Correction.*—The Surgeon in evidence states, that he lays it down as a rule, *never to allow any extra food or alteration* in the diet to any but patients in hospital. This appears to me an injudicious departure from those sound precautions for the preservation of health observed in other establishments. I allude, particularly, to the cases of *soldiers* imprisoned here under sentences of court-martial for lengthened periods, and who have, in several instances, *suffered most materially in health*.

The modification of the ordinary diet of a body of healthy persons should not be left to the discretion of the Surgeon or any individual servant of an institution. The managers are the responsible persons on whom devolves the duty of framing a proper dietary. A surgeon who is disposed to defer to the opinion of his employers may consider the privations of a prison, comprehending insufficient diet, a part and parcel of the punishment inflicted on a prisoner, and deem it inexpedient to interfere. Besides, where all are suffering, or liable to suffer, from insufficient diet, or from a diet not sufficiently varied, it might be a very invidious duty for a surgeon to recommend a better diet to one prisoner and not to many others. Considerable differences exist in the dietary of prisons, both in quality and amount, and where it is low or innutritive, the health suffers accordingly. The prevalent prison diseases are *petechia*, or scurvy, and cachexy, or an ill-condition of body, which, in some cases, are attended by prolonged weakness, and in others become so virulent that the patient never recovers. In the treatment of prisoners, it is highly expedient to avoid everything harsh and arbitrary calculated to embitter and exacerbate their moral dispositions, and due care should be taken that their bodily or mental vigour should not be injuriously diminished.

Dr. Malcolmson, Madras Medical Service, thus describes the effect of solitary confinement and a bread and water diet on the health of soldiers in India :—

Many men, (says Dr. M.,) particularly those of indolent habits, endure a confinement of four or six weeks on bread and water without

injury to their health; but in some instances a shorter period is sufficient to cause a total loss of appetite; the bread is hardly touched, and no other food being allowed, the patient is unable to eat or to digest it. The stomach becomes weak; there is uneasiness across the region of the stomach, spleen, and liver; the latter is torpid; the bowels are confined, or they are relaxed with slimy discharges unaccompanied with pain; yet the swollen red tongue indicates the existence of irritation of the mucous membrane of the digestive canal. The pulse is quick and feeble; and the clammy skin, vertigo, debility, headache, and sleeplessness, shew how much the constitution suffers from diminished nervous power. The convalescence is slow, and the treatment requires to be adapted to the enfeebled state of the system."—(*Letter to the Right Honourable Sir Henry Hardinge, 1837.*)

It may not be improper to add (says Dr. Malcolmson) that I have observed the minds also of prisoners confined for long periods, more especially when on a diet they believe to be destructive to their health, to become gloomy or even furious, and disposed to commit every crime.

This is a very unfavourable state of mind for improvement, inasmuch as, whenever punishment has the effect of exciting exasperation and despair in the mind of a criminal, his moral faculties will be closed against every beneficial influence which confinement is intended to produce.

In 1844 a clause was introduced into the Mutiny Act authorising the Secretary at War "to set apart any forts, barracks, or other buildings now erected, or which may hereafter be erected, or any part or parts thereof, as places where the sentences of courts-martial may be carried into execution, and as military prisons," and to appoint and remove the officers, and also to appoint Visitors, who are to be invested with the same powers as Visiting Justices. Under this authority, military prisons have been established at Fort Clarence, (Chatham,) South Sea Castle, (Portsmouth,) Devonport, and Weedon; and it is presumed others will shortly be ready. The very desirable object of not mixing the soldiers with civil criminals will be thus attained. Cells of approved construction have also been erected in many of the barracks in this kingdom, and "it is left to the discretion of Commanding Officers to confine prisoners in these, if under sentence for any period not exceeding twenty-eight days; but in all cases where the time awarded is beyond that, they are to be sent to the district prison." A code of regulations for the guidance of the various officers of these prisons, has been issued by the Secretary at War, so that a greater amount of uniformity in the treatment and discipline of military prisoners may be expected, than has heretofore been found practicable.

The convicted delinquent has his rights, and it is for the interest of the State that a soldier should not be deprived of them ; he is entitled to a wholesome atmosphere, decent clothing, and bedding, together with a diet sufficient in quantity and quality to support his health and strength, and adequate light during the day to enable him to read. To render solitary confinement more irksome, the cell windows are in some of the civil prisons so constructed as to admit a little light, but to exclude the sunbeams. It is in the military prisons alone, as described by Colonel M'Kinnon, that total darkness reigns. Darkness is a prison punishment in America. The keeper of the Cherry Hill prison, in Philadelphia, is authorised to punish delinquent prisoners by confining them in a dark cell, and depriving them of the consolation of labour. The object of punishment being reformation, upon what principle should a soldier be starved, and buried alive ? By confining a man in a *black-hole*, it may be said, he is forbidden to reform, inasmuch as we deprive him of the means of intellectual and moral improvement which might promote contrition and repentance. Simply to punish, without endeavouring to produce some beneficial alteration in the disposition of the person punished, is little other than an act of retribution or revenge. It cannot be too deeply impressed on the minds of officers, that punishment is only allowable as a medium of reformation, the mere vindictive satisfaction of the law being an accumulation of the evil of punishment upon the evil of crime, without any rational ulterior object.

An unvaried diet, or a diet deficient in quantity, or, to be more particular, a diet of bread and water, operates unfavourably to moral improvement and as a means of deterring from misconduct. It is, perhaps, as hurtful to the intellectual as the moral part of the human mind. A soldier who is enduring great privations in regard to food, as a punishment, must be but little disposed to form good resolutions, or to attend to the lessons of discipline. "There can be no doubt," says Dr. Malcolmson, "of the truth of the principle, that no punishment can be just, or in the eye of God lawful, which tends to impair the efficiency, injure the health, and shorten the life, of the soldier ; or which produces any effects that cannot be estimated by the judges when they assign a punishment for an offence." Let us recollect, that soldiers are men of like appetites and passions with ourselves, and let us act towards them according to the dictates of humanity and the lessons of experience. Military law and military usages, when wisely and justly administered, like the law of God, do not

*"desire the death of a sinner, but rather that he should turn from his wickedness and live."*—(Ezek. xxxiii., 11.) An adequate quantity of food, sufficiently varied, and exercise, must be allowed to prisoners, if it be intended that they should afterwards be useful to their country or themselves. For the sake of example punishment should be somewhat severe but well regulated; and for the sake of the prisoner, and the interests of the State, the utmost care should be taken, that at the expiration of his confinement he may be liberated with his health and strength unimpaired, and, if possible, with an improved disposition to respect and obey his superiors.

The effects of an insufficient and an unvaried diet should be well considered, before healthy men are limited to bread and water—a restriction which has, in many cases, produced cachectic disease and scurvy in prisoners; and it ought to be recollect ed, that the constitution may be greatly injured by a too limited or an unvaried diet, long before decided symptoms of scurvy appear. The epidemic which broke out in the Milbank Penitentiary, London, nearly twenty years ago, is a memorable instance of the evils which result from insufficient nutriment.

With regard to the diet of soldiers undergoing punishment, I presume the object is, that they should have enough for nourishment and health, and very little more. How much and what quantity of food will suffice for that purpose has not, hitherto, been correctly ascertained by experiment. There is no universal rule in this respect, for the same quantity and quality of food which may be adequate to sustain the health and strength of one individual may be very inadequate to support another. Practically, however, the principal question seems to be, can animal food be safely excluded from the diet of military prisoners? I have no hesitation in answering this question in the negative. Soldiers have in general been accustomed to a daily allowance of twelve ounces of uncooked animal food, and it will also be recollect ed that a man who is undergoing punishment is liable to the influence of various debilitating causes, such as the depressing passions, want of exercise, &c. The ultimate intention of confinement being reformation, it is essentially necessary that a prisoner's health and strength should be carefully sustained, with a view to his prospective efficiency as a soldier. I am disposed, therefore, to conclude that a soldier who is undergoing the sentence of a court-martial in confinement should invariably have a portion of animal food daily. The mean age of soldiers in the

infantry varies from about twenty-six to twenty-nine years; consequently a large portion of the men of each regiment must be under twenty-three years of age. Now every person who has devoted any attention to human physiology must be aware that a growing young man, from seventeen or eighteen years of age to twenty-two, requires, and will consume, more food than a man ten or fifteen years older. The reason is obvious; in a growing youth the progressive development requires to be provided for. Starvation in the early period of life permanently ruins the constitution; consequently I am disposed to suggest that no young soldier,—perhaps I may go still further, and say no soldier,—should be punished by depriving him of much of his usual daily ration of food.

By the rules for the District Military Prisons, the diet is ordered to be for prisoners not in solitary confinement, twelve ounces of oatmeal or bread, with half a pint of milk for breakfast, and five pounds of potatoes, with a pint of milk for dinner; if in solitary confinement by sentence of a court-martial, ten ounces of oatmeal or bread, with half a pint of milk, and four pounds of potatoes, with a pint of milk; and if in solitary confinement for a prison offence, one pound of bread daily, with water for drinking *ad libitum*; but this punishment must not continue for longer than seventy-two hours at a time, for the reasons already stated. I do not consider this an adequate diet, and it seems doubtful whether the Secretary at War consulted any medical officer having much experience of *military* prisoners, before adopting this scale.

It would be out of place here to dilate further upon the evils of an insufficient and inadequately varied diet, added to confinement, want of exercise, and depressing passions. It is sufficient to state, that they are calculated greatly to injure the constitution, and to excite the most formidable diseases, although, from their anomalous character, these often escape detection until too late to be remedied by art. When the health becomes impaired by scanty nourishment, the subsequent addition to the diet may fail to restore it.

Limiting the diet of prisoners to bread and water appears to have been a very ancient mode of punishment by the English. When the famous Joan of Arc was convicted of heresy, the Bishop who passed sentence announced to her that of "grace and moderation" her life should be spared, but that the remainder of it must be passed in prison, with "the bread of grief and the water of anguish for her food;" (*au pain de douleurs et à l'angoisse.*)

Whatever may be advanced in favour of an extremely limited diet, as a means of reformation and for example in civil life, I am no advocate for its general adoption in the army. The health and efficiency of the troops is of so much importance to the State, both in a financial and a political point of view, that too much care cannot be taken to prevent soldiers being exposed to circumstances which may impair their constitutions and disgust them with the service.

Imprisonment, conducted on either the separate or the solitary system, will, no doubt, tame in some degree the violent passions of unruly individuals ; but it may at the same time paralyse the energies of the mind, and impair the prospective efficiency of a soldier. The *black-hole* system, conducted in the way recommended by Colonel M'Kinnon, would in all probability reduce many a mind to a weak, blank, negative condition. Books, together with good counsel, may dispose a prisoner to form good resolutions ; but resolutions which have not been acted upon do not deserve implicit confidence—reformation may not be the result. It is only by the exercise of subordination, and the practice of correct discipline, that the military virtues can be effectually cultivated. The morality of a prison, where there are no temptations, and where there is an absence of the power and opportunity of doing evil, is compulsory, and must not be depended upon.

There is one consequence of imprisonment which deserves consideration, namely, that the mortality of prisoners is generally greater than that of free people. The loss of liberty, and the humiliation connected with the condemned state, may, in part, be the cause of the increased mortality. Hitherto, so far as I know, no numerical statement of the mortality of military prisoners has been made public. To appreciate the effects of confinement and the privations and sufferings connected with it, the annual proportions of deaths should be compared with the average annual number of soldiers confined in the whole army. The mortality of prisoners should form an essential element in the statistics of the army. In the American prisons it has been found that the mortality among prisoners confined in a state of complete solitude, is more than double that which takes place among those who are in a state of solitude at night only.

*Mortality in the American Prisons.*

Time when.	Solitude at Night. Auburn Plan.								Solitude Day and Night. Pennsylvania Plan	
	New Hampshire.		Vermont.		Wethersfield, Connecticut.		Charlestown, Massachusetts.		Asylum, New York.	
	Prisoners.	Deaths.	Prisoners.	Deaths.	Prisoners.	Deaths.	Prisoners.	Deaths.	Prisoners.	Deaths.
1828	..	..	..	2	..	1	290	4	571	9
1829	48	1	..	..	134	..	262	6	639	5
1830	54	..	..	1	167	4	290	5	620	18
1831	82	..	..	..	182	4	256	7	647	14
1832	89	1	..	1	192	2	227	11	683	12
1833	87	..	108	1	186	3	250	6	679	11
1834	86	..	..	1	189	1	277	4	679	11
1835	90	1	125	2	197	4	279	3	654	10
1836	82	1	120	2	204	8	278	4	648	18
1837	72	1	101	2	204	1	284	5	678	19
1838	73	..	95	1	187	9	302	6	660	15
1839	78	1	..	..	170	..	309	5	670	10
1840	81	..	..	..	187	2	320	2	682	14
1841	81	1	..	..	..	..	326	8	701	9
Total	1003	7	549	13	2199	39	3950	76	9211	175
									3088	127

N.B.—In none of the prisons on the Auburn plan is the mortality one in fifty, or two per cent.; in the New Penitentiary, at Philadelphia, it is more than one in twenty-five, or above four per cent.

*Marking with the Letter D.*—On conviction of desertion, courts-martial are indirectly enjoined to award, as part of the punishment, that the offender be marked with the letter D. It was a very general custom in the East to *brand* slaves on the forehead, as being the place most exposed, as well as on other parts of the body, the ultimate object being to distinguish the slaves if they should desert from their masters. For a similar reason it was common to brand soldiers, but with this difference, that while slaves were marked with the name, or some peculiar character, belonging to their master, soldiers were branded in the hand with the name or character of their General. Roman recruits were branded upon final approval, after a trial of three or four months.

Branding delinquents at one time entered largely into the English penal statutes. In the reign of Edward VI. a law was made for the punishment of idleness, by which, if a person brought to two Justices of the Peace a runagate servant, or any other which lived idly and loiteringly for a space of three days, the said Justices might cause the said servant or vagabond to be marked

with a hot iron on the breast with the letter V, (vagabond,) and if he absconded for the space of fourteen days two Justices of the Peace might order him to be marked on the forehead or the ball of the cheek with the hot iron with the sign of an S, (slave,) and adjudge him to be a slave to his said master for ever.

In former times, branding was not limited by the Articles of War to the male sex. By the garrison regulations of Henry V. it was ordained, "That if any common woman presume to come within the King's hoste, or nigh the same, by the space of three miles, if any so be taken to be brent (branded) on the right cheek at the first." If taken *afterwards*, "to be put in the ward of the Marshal, there to remain in prison as long as shall please the Marshal, and to have further puniton as by him shall be thought convenient."

By the Parliamentary Ordinances in the time of Charles I. it was ordained, "If any whores shall be found following the army, if they be married women, and run away from their husbands, they shall be put to death without mercy; and if they be unmarried, they shall be first *marked* by the hangman, and thereafter by him scourged out of the army."—(Samuel, *Account of the British Army*; p. 93.)

Branding in the hand or face was a punishment inflicted for theft and other offences until 1779, and it remained on the statute-book as a punishment for manslaughter till the reign of George IV., when it was entirely abolished. In recent times, the iron was frequently not much heated, except in bad cases of manslaughter, when, as only one year's imprisonment could be added, the instrument was sometimes effectually heated. When branding was abolished as a punishment, whipping or imprisonment was substituted. Public whipping has already fallen into disuse, and private whipping is but very rarely practised, except for breaches of prison discipline, and chiefly on juvenile offenders.

During the reign of George I., desertion from the army was punished by "*stigmatizing in the forehead*, unless the greatness of the number of desertions required some examples for terror of others, in which case they ordinarily throw the dice; and those alone upon whom the exterminating lot doth fall are hanged or shot to death. But in cases of reiterating the crime, all deserters now-a-days are to die without mercy."—(*Bruce's Institutions, &c.*, 1717.)

Branding is now, I believe, rarely used as a punishment, except in China. In America it is much employed to mark slaves. We

learn from Prince Oscar that, to the honour of Sweden, branding, and several other barbarous punishments, were never used in that country.

Branding deserters from the army is, so far as I know, peculiar as a punishment to the United Kingdom. I do not know that it was ever adopted in France. During the old *régime*, the crime of desertion was punished by slitting the nose—a punishment which was changed to that of death, without being more effectual;—a proof, says Montesquieu, that the fear of even capital punishment is not a more powerful prevention of crime than less severe inflictions. I do not think branding was ever employed as a punishment in the British navy.

The mode of marking deserters is by a species of *tattooing*, which is performed in the following manner:—A mark of the letter D having been traced on the left side, two inches below the armpit, such letter being not less than an inch long, the skin is pierced so as to draw blood, usually with a small bundle of common sewing needles, along the tracing of the letter; after which operation gunpowder is well rubbed upon the wounds, for the purpose of rendering the mark visible and conspicuous, and not liable to be obliterated. The *rationale* of the process is this:—The charcoal of the gunpowder being forced into the small orifices made by the needles, remains in the skin without festering after the wounds have been healed, and in consequence of the black colour of the charcoal, the letter D is visible. As it is usually performed, the mark presents but an imperfect specimen of tattooing, the orifices made by the needles being too small to admit the requisite quantity of colouring matter. A shark's tooth is considered a good instrument for this operation, the cutting edge being angular and serrated. A saddler's needle, which is three-sided, is better adapted for tattooing than a round or common sewing needle. A piece of charcoal, rubbed upon a stone with a little water or lamp-black, so as to produce a thick liquid, is a much better colouring substance than gunpowder.

A Circular has lately been issued from the Horse Guards, directing that the marking of deserters shall hereafter be performed in a uniform manner throughout the army, by means of an instrument recently invented. This is made of brass, shaped at the end into the form of the letter D, from the outline of which is protruded, by means of a spring, a series of needle points, the length of which may be increased or diminished by turning a screw at the end of the handle of the instrument. By pulling

back this nut, after the points are regulated, they recede into the box, when the instrument may be considered charged. A slight pressure on a small brass lever delivers the needle points, inflicting punctures on the skin the exact shape of the instrument. These punctures, on being rubbed with a marking fluid, composed of a quarter of a pound of pulverised indigo, two sticks of Indian ink, and enough of water to render it liquid, leave a mark, supposed to be indelible, of the letter D upon the side of the deserter. This punishment is only to be administered on parade, in the presence of the men—in the cavalry by the Trumpet-Major, in the infantry by the Drum-Major, and in rifle and light infantry corps by the Bugle-Major, who are to be instructed by the medical officer how to apply the instrument. It is, moreover, only to be inflicted in the presence of the Surgeon. The special duty assigned to a medical officer in the execution of the sentence of branding or marking a delinquent, is neither of a medical nor a surgical character, it being merely to instruct the Drum-Major how to apply the instrument. The machinery and mode of application of this instrument is, however, so simple, that few Drum-Majors will require any instruction. If marking deserters is considered indispensable, there are no possible means by which it can be accomplished with less pain and more certainty.

The mark inflicted by branding with a hot iron would not be so conspicuous as the mark by tattooing, and consequently it would be a less infamous punishment. Any indelible stigma or brand of infamy is a fearful punishment, for the infliction is completely irremissible; it cannot be removed by repentance, nor by any given period of good conduct. The great object of punishment being the reformation of an offender, it is very desirable that it should be as much as possible exempt from that vindictive spirit which obstructs the exercise of mercy. A branded man may say, in the language of Cain, "I shall be a fugitive and a vagabond in the earth." A soldier, after being marked, has no encouragement to mend, no inducement to do good, no incentive to subordination; his good actions are liable to pass unheeded, while his irregularities are readily noticed and rigidly punished. Branding will never urge men to reformation, but is much more likely to increase disobedience and discontent, and to drive them to acts of desperation. A soldier who is branded, has an insuperable bar set against him in the minds of his superiors—he can never hope to obtain their confidence; and hence one of the strongest encouragements to obedience is removed. Branding has

been recommended to be extended to other crimes than desertion, on the principle that no punishment is more generally dreaded.—(*Appendix to Report on Military Punishments*, pp. 82—91.) In this recommendation I cannot concur, believing, as I do, that branding is the most vindictive and least reforming of all military punishments. Indeed, I think it is not a little degrading to the army to retain a branded soldier in the ranks, the original use of branding being to distinguish runaway bondmen or slaves. Desertion will never be effectually prevented but by inducing men to like the service, to prefer it indeed to other employments. If a man is dissatisfied with the army, he may at any time desert in this country, and hope will tell him he may do so with many chances in his favour that he will escape being retaken, and found again fit for service.

To brand a soldier, and then discharge him from the service, is to turn a man adrift in the world with greatly impaired means of earning an honest livelihood. Hunger urges its victims to follow dishonest courses; and what else can be expected from a branded and discharged soldier? It is the common misfortune of public punishments that they preclude the offender from all honest means of future support. Newgate thieves have been known to say, “We do not thieve from disposition, but because we cannot get employment. Our character is damned, and nobody would have us;” and so it is. Branding on the left cheek was employed as a punishment about the commencement of the last century, but it was found by experience that this infliction had not the desired effect of deterring such offenders from the commission of crimes and offences, but, on the contrary, *being rendered thereby unfit to be entrusted in any honest and lawful way, they became the more desperate.* The Act according to which this punishment was inflicted, was repealed in the reign of Queen Anne.

I am aware that the usual apology or reason which is given for branding men who are discharged as being considered incorrigible, is to prevent their re-admission into the army should they again enlist. This, however, will only apply to men who may be discharged under the period of life when recruits are eligible. To brand men, therefore, who have reached twenty-six years of age, must in a great degree be a measure of vindictive retribution, not a medium of reformation or moral improvement. The man is stigmatised and degraded—for what purpose? Certainly not for promoting his amendment, or for rendering him more subordinate. The question to be investigated in regard to

this punishment is not merely how little a man is injured by it, but what benefit is likely to be derived from its infliction—to himself or to the country.

Courts-martial sometimes not only sentence men to be branded who are much more advanced in life than the age when recruits may be received into the service, but they also sentence them to be branded a second time, and subsequently transported. Soldiers who have been transported are not likely to re-enter the service surreptitiously, and consequently the reason alleged for branding such men is fallacious. Branding is a relic of bad times, and carries something revolting to humanity along with it. To render a fellow creature the object of scorn has a tendency to harden him to vice, by making his return to self-esteem and the respect of his superiors almost an impossibility.

*Discharged with Ignominy.*—The ceremony which takes place on discharging a soldier with ignominy, is conducted as follows:—The regiment being assembled on parade, and the man about to be discharged brought forward, the several crimes and irregularities of which he has been guilty are recapitulated, and the order for his dismissal read, together with his discharge, in which is notified his ignominious and disgraceful conduct, the buttons, facings, lace, and any other distinctions, are then stripped from his clothing; he is marched down the ranks, and trumpeted or drummed, as the case may be, out of the barracks or quarters of the corps. It is directed by the Articles of War that “the names of all soldiers who have been dismissed with disgrace, or who have forfeited their pension owing to misconduct, shall be notified to the parishes to which they belong, such notification being affixed on the outside of the door of the church or chapel on the Sunday next succeeding the receipt of the notification.” By this notoriety a large portion of the disgrace inflicted on a soldier falls on his family and connexions. The innocent may consequently suffer more than the guilty—a result which is certainly not intended. Formerly, when a soldier was dismissed with ignominy, he was escorted, with a halter round his neck, by the drummers of the regiment, with a written label, containing the particulars of his crime, through the streets of the camp or garrison, and dismissed with a kick from the youngest drummer. I have seen a man flogged, and immediately after dismissed in this manner.

The discharging of a soldier, either with or without ignominy, is equally well adapted for the purpose of getting rid of an offender, which is commonly the principal object of this mode of punish-

ment. It may be doubted whether discharging with ignominy possesses much of the deterring principle, as military people know well, that a discharge of this kind, like a sentence of transportation, has been often courted. The moral pain, when there is any, arising from the ignominious ceremony, is commonly of a very temporary character—a circumstance which is partly caused by the sympathy of the spectators.

When Dumouriez was retreating before the army of the Duke of Brunswick, in 1792, he adopted an unusual, if not a novel plan of punishing fugitives ; he stripped them of their uniform, caused their eyebrows and heads to be shaved, and dismissed them with ignominy as cowards, which example, it is alleged, produced a very beneficial effect.

In the foregoing sketch, my principal object has been to describe the various punishments which have been employed in the armed force of this country, together with an account of the meliorations that have taken place in the administration of the Articles of War, with cursory remarks on the evils which result from an abuse of the penalties of military law and military usages, leaving the means of preventing these evils to the consideration of those in authority, whose duty it is to superintend the recruiting, the discipline, the efficiency, and the general welfare of the defenders of the State.

Abuse is an element which enters into all laws and regulations, and in proportion as laws and customs are liable to be misused under an average administration, they are unsuitable or inadequate for their object, and fail in effecting the ultimate end of punishment—reformation and prevention ; in the army—OBEDIENCE.

The following Official Returns will shew—

1. The Number of Soldiers in the Colonies who have suffered Imprisonment, from 1831 till 1838.
2. The Number of Soldiers on Foreign Service who have suffered Corporal Punishment, from 1831 till 1838.
3. The Number of Soldiers on Home Service who have suffered Imprisonment, from 1831 till 1839.

*Abstract of the Number of Soldiers belonging to Regiments in the Colonies and Possessions of Great Britain, who, in each Year since the 1st day of January, 1831, have suffered Imprisonment; showing the Nature of the Offences, in Classes, for which such Imprisonment has been awarded, and the Number in each Class; stating also the Longest and Shortest Period of Confinement awarded as Punishment, and the Average Period of Confinement for each Class in each Year.*

OFFENCES.	PUNISHMENTS IN THE ARMY.							
	1831.	1832.	1833.	1834.	1835.	1836.	1837.	1838.
Murder	4	122	239	1	D.	D.	D.	D.
Desertion	235	730	30	88	207	365	112	219
Violence to Superiors and Comrades	153	548	15	49	166	730	14	71
Insubordination	78	168	10	23	99	180	7	33
Disobedience	31	183	10	55	65	365	9	46
Quitting, or Sleeping on Duty	50	200	10	40	974	558	7	49
Pestilence	288	548	14	365	14	138	181	7
Drunk on Duty	71	365	14	71	72	730	21	101
Habitual Drunkenness	442	366	6	37	458	210	7	25
Disgraceful Conduct	231	112	7	23	259	365	7	27
Absence without Leave	53	70	7	22	612	730	2	21
Making away with Necessaries	(See 2nd Article of War)	936	7	22	686	365	7	29
Miscellaneous Offences	(See 2nd Article of War)	53	70	7	22	612	730	2

*Note.—This return has been prepared in accordance with the order of the House of Commons, as far as it is practicable; but a return founded (as required) on a Classification of Offences and Punishments cannot be prepared with strict accuracy, owing to the circumstance that, in the army, the same individual is often tried for more than one offence, and may be, and frequently is, sentenced to one, or more than one punishment.*

*Adjutant-General's Office, 21st April, 1840.*

(Signed)

JOHN MACDONALD, Adjutant-General.

*Abstract of the Number of Soldiers belonging to Regiments in the Colonies and Possessions of Great Britain, who, in each Year since the 1st day of January, 1831, have suffered Corporal Punishment; shewing the Nature of the Offences, in Classes, for which such Corporal Punishment has been awarded, and the Number in each Class; stating also, the Greatest Number and the Lowest Number of Lashes inflicted on any Person in each Year, prepared in pursuance of an Order of the House of Commons, dated 23rd April, 1830.*

PUNISHMENTS IN THE ARMY.											
OFFENCES.											
1831.	1832.	1833.	1834.	1835.	1836.	1837.	1838.	Corporal Punishment.	Corporal Punishment.	Corporal Punishment.	Corporal Punishment.
Mutiny . . . . .	1	300	100	2	500	400	300	100	1	300	200
Desertion . . . . .	48	650	37	500	150	24	300	150	15	64	400
Violence to Superiors, and } Insubordination . . . . .	132	600	150	134	800	25	112	500	150	132	500
Disobedience . . . . .	48	500	19	52	500	25	35	300	23	87	300
Quitting, or Sleeping on Post . . . . .	4	500	100	11	600	150	6	300	150	18	300
Drunk on Duty . . . . .	59	500	75	50	500	50	40	300	25	69	300
Habitual Drunkenness . . . . .	16	500	34	20	500	8	300	50	12	300	150
Disgraceful Conduct . . . . .	82	500	68	51	500	160	39	475	75	326	84
Absence without Leave . . . . .	122	500	100	69	450	100	104	300	50	48	300
Making away with Necessaries . . . . .	146	500	40	59	300	50	107	200	19	125	300
Miscellaneous—(Vide Articles of War, 58 and 70.)	158	375	25	88	300	75	93	300	50	59	300

*Note.—This return has been prepared in accordance with the Order of the House of Commons, as far as it is practicable; but a return founded, as it is, on a classification of offences, cannot be prepared with strict accuracy, because, in the army, the same person is often tried, at one and the same time, for more than one offence. It is also to be observed, that, in the year 1833, the award of corporal punishment was restricted, by special authority, to certain offences, namely—"Mutiny," "insubordination," "violence, or offer of violence to superiors," "drunkenness on duty," "disgraceful conduct," and "making away with necessaries;" consequently, in all other cases which appear in this return, the offence (as for instance, "Desertion," "quitting, or sleeping on post," and "absence without leave") was coupled with "making away with necessities," or some other act to which corporal punishment was applicable.*

*Adjutant-General's Office, 17th March, 1840.*

(Signed)

JOHN MACDONALD, Adjutant-General.

[CHAP.

[VIA.]

*Abstract of the Number of Soldiers belonging to Regiments and Depôts in Great Britain and Ireland, who, since the 1st of January, 1831, have suffered Imprisonment; shewing the Nature of the Offences, in Classes, for which such Punishment has been awarded, and the Numbers in each Class; also, the Longest and Shortest Period of Confinement awarded as Punishment, and the Average Period for each Class of Offences in each Year.*

**PUNISHMENTS IN THE ARMY.**

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OFFENCES.	1831.		1832.		1833.		1834.		1835.	
	Confinement.		Confinement.		Confinement.		Confinement.		Confinement.	
	Longest Period.	Average Period.	Shortest Period.	Number who have suffered Imprisonment.	Longest Period.	Average Period.	Shortest Period.	Number who have suffered Imprisonment.	Longest Period.	Average Period.
Murder . . . . .	2	730	60	..	..	..	..	..	3	182
Desertion . . . . .	297	365	14	64	269	365	10	70	92	92
Violence to Superiors, and Insubordination . . . . .	85	730	7	129	131	547	10	94	179	1460
Disobedience . . . . .	53	91	7	23	61	92	7	22	79	365
Quitting, or Sleeping on Post . . . . .	32	42	14	68	72	168	7	67	52	182
Drunkenness on Duty . . . . .	208	120	7	30	249	336	7	38	231	365
Habitual Drunkenness . . . . .	203	180	10	38	310	121	7	35	293	112
Disgraceful Conduct . . . . .	219	365	14	75	52	365	14	63	80	224
Absence without Leave . . . . .	296	112	7	21	355	112	3	19	737	120
Making away with Necessaries . . . . .	116	123	7	25	150	365	10	22	213	182
Miscellaneous—{Five Articles of War, 53 and 70} . . . . .	246	168	7	22	307	112	2	22	303	183

*Abstract of the Number of Soldiers belonging to Regiments and Depôts in Great Britain and Ireland, &c.—(continued.)*

OFFENCES.	1836.		1837.		1838.		1839.		Confinement.		Confinement.	
	Days.	Days.	Days.	Days.								
Mutiny	..	..	..	..	..	..	..	..	..	..	..	..
Desertion	279	365	14	57	719	730	10	66	816	730	14	69
Violence to Superiors, and Insubordination	183	730	10	69	142	730	14	80	124	730	10	88
Disobedience	83	365	11	34	85	365	10	32	63	312	15	47
Quitting, or Sleeping on Post	97	638	14	57	97	365	14	45	74	168	7	53
Drunk on Duty	276	547	7	46	232	365	7	42	236	224	14	48
Habitual Drunkenness	471	547	7	31	402	365	3	44	424	182	7	35
* Disgraceful Conduct	123	547	14	68	133	730	7	78	102	120	20	63
Absence without Leave	826	336	7	28	673	214	3	24	744	183	4	27
Making away with Necessaries	413	547	7	23	379	365	7	24	588	182	7	33
Miscellaneous—( <i>Yeast articles of War,</i> )	438	294	5	25	413	184	7	24	348	196	7	31
63 and 70												

*Note.—This return has been prepared in accordance with the order of the House of Commons, as far as it is practicable; but a return founded (as required) on a classification of offences and punishments, cannot be prepared with strict accuracy, owing to the circumstance that, in the army, the same individual is often tried for more than one offence, and may be, and frequently is, sentenced to one, or more than one punishment.*

*Adjutant-General's Office, 8th May, 1840.*

(Signed)

JOHN MACDONALD, Adjutant-General.

## CHAPTER VIII.

### EDUCATION.

IT may, I believe, be assumed, that a large portion of the British army have received little or no education, and that private soldiers are perhaps in many respects inferior in mental attainments or general information to an average of the class of artizans, or of the other classes of the population to whom they originally belonged.

It is well known, that young persons who have learned to read in early life, frequently lose the ability to do so by want of practice, as in the army, where want of opportunity and of adequate encouragement may be pleaded for neglecting intellectual cultivation. Without a certain degree of skill and taste for reading, and without a beneficial object in prospect, that portion of early tuition which has been received in childhood soon becomes, by residence in a barrack, of no avail. It is happily the general tendency of our times to diffuse among the many the improvements once confined to the few; but hitherto little, or rather nothing, has been done to extend intellectual and moral culture to the army. In the lowest classes of life, many individuals make considerable progress in improving their minds; but how rarely do soldiers devote their attention to self-cultivation.

It may be stated, as a remarkable fact, that of the 214 officers who returned answers to the following query, which was addressed to them by the General Commanding-in-Chief, in 1834, only two or three recommended intellectual, moral, or religious cultivation, as a means of preventing crime:—“*Are you enabled to suggest any means of restraining or eradicating the propensity to drunkenness, so prevalent among the soldiery, and confessedly the parent of the majority of military crimes?*” A great variety of penal enactments were recommended, but no one suggested the school-master’s drill, but Sir George Arthur and the late Colonel Oglander. The Colonel’s words are:—“The only effectual corrective of this, as of every other vice, is a sound and rational sense of religion. This is the only true foundation of moral discipline. The establishment of libraries and the system of *adult* schools, would be useful in this view.”

An anonymous author most truly asserts, that—"We discipline the soldier's body, but take no pains to discipline his mind, and yet lift up our eyes in astonishment that he should follow the brutish propensities of his nature, and revel in the lowest debauchery, with the certainty of the lash, the guard-house, or the hospital, before his eyes. This conduct our Generals deplore: Royal commissions are issued, and huge volumes printed, in the vain hope of remedying it, but none seems ever to have taken into view, that, but for the blessings of education, their conduct might be equally reprehensible. They may start at our assertion, but fearlessly do we repeat it; place them in the same situation as a soldier—deprive them of the advantages of that education which enables them to foresee and reflect on the consequences of their actions, leave them plenty of leisure time on their hands, without teaching them how to occupy it, and the results would be the same as in the case of soldiers."—(*United Service Journal*, January 1838.)

Much has been said and written about the punishment of military offences, but little, wonderfully little, has been done towards their prevention. No attempt has been made to render a soldier capable of reflecting upon the immediate and remote consequences of his actions—none to teach him how to discern good from evil, or to induce him to seek the one and avoid the other. He has hitherto had no encouragement to elevate his own character, or that of his profession, in the estimation of the public. The Commissioners who reported upon the system of military punishments in the army recommended—"That no consideration of expense, within reasonable bounds, should be allowed to stand in the way of attending to the comforts of the soldiers while in the service, and of a sufficient pension for the good and deserving man after that service has been performed;" but little, if anything, is said in their Report respecting the means of converting an illiterate disorderly youth, into a "good and deserving man," by moral and religious instruction. It cannot, I think, be doubted, that it is much easier to render the ignorant and uncultivated subservient to unworthy purposes, than the instructed and reasoning man. In regard to the propensity to drunkenness among soldiers, Sir George Arthur says,—“The root of the mischief is ignorance, and a habit of evil. If it be essential, as it is, that the Sergeant should drill the clumsy lout into an active soldier, it is equally so that the teacher should meet with the same encouragement in giving him mind; that is, he should be equally supported in his exertions, if

mental culture were equally prized with personal appearance." But the mental culture of soldiers never has been equally prized with the art of handling arms. Much, therefore, requires still to be done before moral and religious instruction be duly valued and adequately disseminated in the army. But there is surely no legitimate reason why the army should be inferior, in as far as the elements of instruction are concerned, to any other class of the population. The code of regulations for the management of prisons in Scotland, directs that every prisoner sentenced to three months' confinement or upwards, and who is unable to read and write easily, shall receive instruction in reading and writing. In the prison of Glasgow, drawing has in some instances been super-added : this is a valuable example.

Well-informed, liberal-minded individuals are, I believe, almost uniformly aware, how indispensable an increase of knowledge is to the efficiency, the welfare, and the happiness of mankind ; but it has been observed, that men of weak intellect and stinted information assert, that the lower ranks of society are more useful and more virtuous in proportion as they are more ignorant. From these lower ranks those judges of human nature are careful to except themselves ; and by a little attention it may be discovered that the principal reason for keeping the lower orders in ignorance, is to keep them at a greater distance from their superiors. "A similar reason," says Macdiarmid, (*Principles of Civil and Military Subordination,*) "renders the ignorant and incapable part of military officers loud declaimers against rendering the privates too intelligent. These gentlemen feel that the privates, if they acquire the requisite qualities for efficient soldiers, will greatly outstrip themselves, and become their superiors in those qualities which a shameless indolence does not permit themselves to attain."

The following anecdote will illustrate the opinion entertained on this subject by some officers. "I remember," says Colonel Campbell, "years ago being visited by a brother Adjutant. As he entered my barrack-room, a young soldier placed a book upon the table and retired, which my visitor, a few minutes after, took up, and being surprised at what it indicated as its contents, he asked me, in seeming astonishment, what a private soldier could have to say to such a work ? I replied carelessly, that the soldier who had just left was a young man of considerable ability and great promise, and that I wished him to read useful books, so as to fit him, at any future period, for any station he might attain. He looked at me again, and seemed by no means satisfied by what

I had said, nor with the book, and then in a very friendly way addressed me :—‘ You are a very young man—the youngest I ever saw made an Adjutant. I have myself risen from the ranks, and have consequently had much experience amongst soldiers, and know them well. You may therefore take my word for it, that books containing such information only tend to make soldiers question the wisdom of their officers, and to fit them for being ringleaders in any discontent, or even mutinous conduct in their companies ; and it also causes them to be disliked by the non-commissioned officers who have to teach them their duties, and especially the Drill Sergeants, who are always jealous of those who are likely to become rivals.’ No officers are so severe, or have so little consideration for the feelings of soldiers, as those who have risen from the ranks.”—(*A British Army as it was, is, and ought to be.*)

I consider it a libel upon human nature to allege, that giving soldiers more knowledge and more sense, tends to excite disorder and insubordination, impatience and extravagant claims. The teaching of morality, in connexion with the sanctions of religion, can never, I believe, spoil men for the right performance of their duties. Men who are so taught, are more apt to understand what is said to them, more decorous, respectful, and conscientious, more attentive to orders, more ready to see and acknowledge the propriety of good regulations, more disposed to shun low company, and less inclined to ebriety, than persons who have received no education, and been brought up in ignorance and gross vulgarity.

Mr. Robert Chambers bears ample testimony to this sentiment, when describing the means which had been adopted to promote education in Scotland, and the beneficial consequences :—“ The result,” says he, “ of educating the people of Scotland has been, not a greater irksomeness under a lowly condition, as might, perhaps, be expected, but a greater power of enduring it,—not a habit of insubordination to those placed by Providence in superior stations, but a tranquil sense of the propriety of a gradation of ranks.”—(*History of Scotland*, vol. ii., p. 146.)

The corps of Royal Sappers and Miners, consisting of thirteen companies, each of sixty-eight men, are, in addition to the elementary branches of knowledge, taught fortification, the manner of drawing plans and sections of buildings, and, to a certain extent, the art of land-surveying ; and it is highly honourable to the men of this corps, that they have invariably, in whatever part of the world they have been employed, conducted themselves as intelligent men

and steady soldiers. The superiority of cultivated men is soon apparent : they have been accustomed to think and to discriminate. Misconduct may be the concomitant of intellectual attainments, but it is the accident, not the consequence of information ; and as it is the more conspicuous, so it is the less excused, when accompanied with mental superiority.

To possess the power of reading and writing imperfectly is not education ; these are merely means of acquiring knowledge. Instruction of a proper kind should include an elementary knowledge of the principles of morality and religion ; but it is a great step to teach soldiers to read and write, and to attain some knowledge of arithmetic : they are by these means qualified to acquire and to communicate ideas, and to exercise their minds.

Education, in a general sense, means the process of acquiring a knowledge of ourselves, and of forming habits of activity, so as to qualify us to perform our parts in life with intelligence and success. Let soldiers, therefore, be taught those branches of knowledge which are essential to a due performance of their duties, to their own respectability and welfare, and be habitually trained to apply them. Few persons now entertain, or at any rate few advocate, the absurd idea of rendering men efficient for the purposes of warfare, by reducing them as nearly as possible to the state of senseless machines, or of withholding from them the means of acquiring information. The more the mind is cultivated, the fitter a man becomes for every situation in life. Mental cultivation renders a soldier more amenable to persuasion and higher motives ; the mind is improved, the ideas enlarged, and the man reasons more.—(*Evidence on Military Punishments*, Quests. 1724—1726.) The morality and good conduct of the army is of more consequence to the security of the country than the morality of any other portion of the population. A soldier who is well acquainted with the nature of right and wrong, and whose desires are brought under proper regulation, is the person from whom we may expect the faithful discharge of military duties. It was a maxim of Napoleon, that in war the moral is to the physical force as three to one.

Much attention appears to be paid to the education of some of the armies of the continental States ; for example, in the kingdom of the Netherlands.

Comme le soldat par sa condition est, (says Kirckhoff,) ordinairement peu instruit dans la morale, et conséquemment très-sujet à s'en écarter ; et comme rien n'est plus contraire à la culture des mœurs que l'ignorance,

on ne doit pas perdre de vue dans une armée l'utilité de l'instruction. Il serait donc éminemment recommandable d'avoir dans chaque régiment une école d'enseignement mutuel, dans laquelle on apprendrait au soldat la lecture, l'écriture, l'arithmetique, et la géographie, et il faudrait donner quelques prix d'encouragement à ceux qui s'y distinguent. *L'utilité d'écoles régimentaires n'a pas pu échapper à la sagesse du Roi des Pays Bas, qui les a instituées dans son armée.* Et une autre chose digne d'éloges durables au prince éclairé, et que je me plaît à citer et à conseiller, c'est d'avoir fait établir dans chaque corps une bibliothèque composée des meilleurs ouvrages militaires, destinée à fournir aux officiers les moyens de s'instruire et d'augmenter leurs connaissances.

*France.*—Great attention has been paid to the diffusion of useful scholarship in the French army, and several of the means adopted for that purpose highly deserve our imitation. Two special schools are attached to each regiment. The instruction to be given in the first class schools (primary schools) comprises reading, writing, and arithmetic, and the studies are limited to two hours at a time, namely, one hour for reading, fifteen minutes for arithmetic on the slate, and as many for oral examination and tuition, and half an hour for writing. In the second or higher class schools, the instruction given embraces French grammar, arithmetic, book-keeping, geography, the military history of France, the elements of geometry and fortification, and taking plans. The studies are similarly limited to two hours at a time, namely, half an hour in answering questions bearing upon the preceding day's instruction, the same time in explanations connected with the routine of study for the day, and an hour in writing exercises and correcting them. The management of a primary or first class school is entrusted to a Lieutenant as director, a non-commissioned officer as monitor-general, one Sergeant, and five Corporals, or privates, as ordinary monitors. The second class schools are conducted by the director and monitor-general of the first class, and the requisite number of pupils of the second class, who are called monitors.

Various regulations have been laid down for the purpose of exciting emulation among those who attend the schools. Soldiers who eminently distinguish themselves are entitled to have their names inserted in Regimental Orders, and thereby acquire a claim for promotion. *Sous-officiers* (Sergeants) recommended for promotion as officers are previously to pass an examination in such branches of knowledge as are taught in the regimental schools. Monthly gratuities are given to the monitors, and half-yearly furloughs are preferably granted to soldiers who can read and

write, and have punctually discharged their several duties—circumstances which are no small guarantee that their conduct has been regular and orderly.

The number of young men on the ballot-lists in 1837 amounted to 326,298. The following statement will shew their degree of scholarship:—

Number.	Per Cent.
155,839 able to read and write . . . .	47·8
149,195 unable to read . . . .	45·7
11,784 able to read but not to write . . .	3·6
9,480 instruction not ascertained . . .	2·9
<hr/> 326,298	<hr/> 100·

The average number attending the schools in each regiment, in 1837, was as follows:—

	Primary Schools.	Second or Higher Class of Schools.
Infantry . . .	142	48
Cavalry . . .	74	21

The primary schools of the army were attended—

In 1831, by 27,059 soldiers.
1833, by 32,450 "
1839, by 35,000 "

The numbers attending the second or higher class schools are usually about one-third of those attending the primary schools. Much care is taken by the officers of the French army to induce soldiers to attend school. They are informed that talents and information confer a right to command. Since a soldier has duties to perform, it is requisite that he should know what they are. It is also necessary that he should be aware of the penalties to which he is liable, more especially as he may, from ignorance, incur punishment for a breach of military regulation, which may not be a moral offence. To avoid committing an offence it is necessary that a soldier should be made acquainted with the nature of military delinquencies, and unless he can read and write, or has attained some degree of information, he may, from ignorance, misapprehend the orders issued for his guidance.

The *Moniteur* published an official document, drawn up by the War Department, from which it appears, that on the 1st January, 1843, the number of soldiers serving in the army who could neither read nor write was 227,800. In the course of that year,

68,289 attended the regimental schools, namely, 50,245—those in which reading, writing, and arithmetic were taught, and 18,044 who followed lectures on grammar, arithmetic, geography, geometry, fortification, &c. Of the 50,245 who attended the course of primary instruction, 11,202, totally illiterate, learned to read, 12,571 to read and write, 5,223 to read and calculate, and 13,899 to read, write, and calculate—in all 42,895.

*Prussia.*—There is a school in every battalion of the Prussian army, which a Captain superintends, and three Lieutenants, who receive additional pay for alternately taking a share in the instruction of the soldiers. At the expiration of his three years' service a soldier is able to read, generally to write, and has acquired some knowledge of the history and geography of his country. As the value of the places given as pensions on retiring from the service must correspond in a great degree with the capability of the individuals to whom they are given, a powerful stimulus is thereby excited to intellectual improvement. Non-commissioned officers who wish to become officers, first undergo an examination in geography, history, simple mathematics, and the German and French languages. At the end of another year they are again examined in the same branches of knowledge, and also in algebra, military drawing, and fortification. If they pass this second examination they become officers. This attention to the mental as well as physical strength of an armed man, forms a new era in military and political science.

*Russia.*—The regimental schools in the Russian army are said to be admirable schools for adults, and they are particularly valuable in a country where, according to the regulations, soldiers are entitled to their discharge after a certain time of service. Before the schools were established, the disbandment of soldiers was a fearful scourge to the country, for it turned loose on society a multitude of men *trained to immorality*, and unfitted for any useful or peaceful occupation; now, they are instructed in the means of becoming valuable members of society, and the army has thus been changed into a training-school for civil life. It has been long remarked, that the first two or three years of peace, after a continuance of war, shew a great increase in the number of criminals. “War makes thieves,” says Machiavel, “and peace brings them to the gallows.” How important is it, therefore, that soldiers should be instructed in the first principles of morality, and encouraged to cultivate their minds.

I may here state, that the Russian army is recruited by ballot, from the serfs, and each proprietor is obliged, in addition to the man, to furnish his outfit to Government, amounting to 1*l.* 5*s.* 10*d.* The soldier becomes free on entering the army, and he is entitled to his discharge after twenty years' service, on which occasion he receives 500 rubles (16*l.* or 20*l.*) to stock a farm assigned to him on the Crown lands.

The armies on the continent being chiefly recruited by conscription, a large portion of the respectable class of society become soldiers ; the sum usually paid for a substitute, in time of peace, in France, being 1200 francs, or 50*l.* for the infantry, and from 1500 to 1800 francs in the special arms of the service, namely, cavalry, artillery, &c. The intermixture of high and low, rich and poor, educated and uneducated, which a conscription usually effects in the ranks of a regiment, has a beneficial influence in regulating the manners, and forming the character, of soldiers. But in this country, where enlistment is voluntary, the recruits chiefly come from the labouring classes, comprehending the dissipated, the disorderly, the idle, the thoughtless, and the wretched. Hence, in my opinion, arises a powerful argument for our devoting much attention to the education of soldiers. Men who have made a voluntary surrender of their liberty and independence for life, the most valuable privilege of our species, have a powerful claim upon the liberality, and the kindness of the State ; they ought to be treated as the children of the community, in as far as their education should be systematically, not merely casually, attended to. But it is our interest, as well as our duty, to give them a suitable education, and thereby to endeavour to elevate them in the scale of society. While it is admitted that recruits are generally ignorant, and that ignorance is the mother of crime, ought we not to consider ourselves bound to instruct them, and to *make* them, in short, so far as circumstances will admit, what we would wish them to be ?

The continental Governments, as has already been observed, pay much attention to the education of their armies ; but men who enlist for life have a much stronger claim on the fostering care of a State than conscripts or substitutes, whose period of service lasts for only a few years. Soldiers being deprived of most of, indeed, I may say all, the popular sources of information, Government should be the more attentive to supply the funds, and to direct the measures which are required to promote education in the army. There are other means of prevent-

ing vice than punishment, which has been too long considered the principal moral specific. Coercion, or corporal punishment, will not give a man a clearer perception of right and wrong, nor will it imbue his mind with a love of rectitude; the utmost beneficial effect which it will produce is a fear of offending. He who is well acquainted with the nature of right and wrong, and whose desires are brought under such proper regulation that he is on all occasions anxious to do what he thinks ought to be done, is the person from whom we are to expect the faithful discharge of military, as well as every other species of duty.

“*Veux-tu faire croître les mérites ? Sème les récompenses.*” Prizes, to be generally beneficial, should be popular—all classes should be able to aspire to them. Now, there is a class of rewards in the army, and by far the most important, namely, promotion, for which a certain degree of literary qualification is indispensably necessary; no man being generally considered fit to be promoted to the rank of a non-commissioned officer unless he is able to read and write his own language,—and this is the extent of the scholarship of most of the non-commissioned officers in the British army.

I would strongly recommend that an adult school should be established in every regiment, and that the institution should be under the superintendence of a commissioned officer, who might, as in the French army, be assisted by a monitor. It is by no means my intention to enter into detail, or to suggest a plan of a regimental school establishment, or to recommend any particular course of study; but it is obvious that a soldier should in the first place, learn that which will best prepare and qualify him for the duties of his station and the situation to which he may aspire. The chief advantage of education is to establish such habits of mind as will fit a man for discharging his duty under all circumstances. There is, however, one branch of knowledge which I would recommend to be communicated to soldiers—namely, the conditions upon which health depends, the advantage of cleanliness, &c. Much useful information might, with great advantage, be imparted to soldiers in regard to the means of preventing disease and preserving health. So early as 1788, Dr. Chausier, an eminent medical officer in the French army, recommended to the French Government to direct the Surgeons of regiments to deliver a course of lectures occasionally to the officers and soldiers of the corps to which they belonged, upon the best means of preserving their own health and that of others. It may

be inferred from Dr. Chausier's suggestion that he approved of addressing soldiers as beings endued with the power of thinking, capable of intellectual improvement, and that he did not consider that military discipline would suffer by all ranks being instructed and their minds cultivated. Soldiers of the British army are perhaps treated too much like irrational beings ; they are neither required nor expected to think, or to do anything for themselves—not even to take care of their health, far less to cultivate their minds. Orders respecting the physical and moral welfare of soldiers should be so framed that, in the words of Sir John Pringle, “he himself” (a soldier) “shall not think them unreasonable, and such as he must necessarily obey.”

It does not come within my plan to say anything in regard to the education of officers, although I may observe that, to render promotion from the ranks a boon to individuals and a benefit to the army, two things are essentially necessary—the person promoted to a commission should be so far educated as to fit him for the society of his brother officers, and he should also be able to maintain himself in his new rank. In my suggestions, however, for the elevation of the character of soldiers, I confess I have been more disposed to recommend that the condition of the army itself should be raised, than that individuals should be promoted to the rank of commissioned officers. The aristocratical constitution of the British army is unfavourable to the promotion of men from the ranks—unfavourable to the worthy individuals who may be so raised above their former condition. It is seldom that a Sergeant obtains a commission under thirty or thirty-five years of age—which is too late a period of life to commence a new career of service. The habits of the men in barracks are seldom much calculated to qualify individuals to associate on a footing of equality with commissioned officers ; and it is next to impossible that a Sergeant who may be promoted can equip himself as an officer, and live at the mess, upon the pay of his rank. The pay of a Sergeant-Major before promotion is 3*s.* 1*d.* per day, or 55*l.* 10*s.* 5*d.* per annum, besides clothing ; he dines for little more than 6*d.*, and has not the rank of a gentleman to support : his pay as Ensign, minus mess and band fees, is 84*l.* per annum ; he has to provide his own clothing, and must pay from 2*s.* to 2*s.* 3*d.* per day for his dinner ; he must keep a servant, and support the character of a gentleman. With something like want staring him in the face he cannot be comfortable, and some degree of comfort is required for the due exercise of independent

and manly virtues. In the event of it being deemed expedient to raise a meritorious soldier to the rank of a commissioned officer, I take leave to recommend that Government should not only present him with a sum of money adequate to fit him out for his new station, but that the pay of his first appointment should be raised, so that he may be able to live at mess. The principle of the measure suggested is not new, although I am not aware that it has been acted upon in the case of subalterns. For example, it has been the usage to raise General Officers, who have distinguished themselves in the field, to the Peerage, and to award to them, and sometimes to their progeny for two or three generations, an annual gratuity. An Ensign is as imperiously called upon to pay his mess bill or his tailor, as a nobleman is to live in the splendour pertaining to his rank.

The subjoined extract from *General Observations upon Military Discipline, and the Intellectual and Moral Improvement of both Officers and Soldiers*, by Major-General Sir George Arthur, deserves the consideration of the highest authorities of the State. Sir George " recommends the practical enforcement of a correct system of rewards and punishments, supported by that high moral influence dependent upon a judicious selection of officers of high character and strict moral principle. Unless the good effects of the precepts issued by the officer be evident in his own daily conduct, little can be accomplished ; for the officer possesses a more direct control over the soldiers under his command, than the landlord can exert over the peasantry in his fields, or the manufacturer over the labourers whom he may employ. The possession of military power should be entrusted to those most likely to afford the influence of good example. This applies more particularly to Commanding Officers. It is essential that an officer so placed should be thoroughly informed upon matters connected with his profession, and possessing, with intelligence, that mixture of decision and mildness of character which are the fruits of a mind habitually regulated by religion and moral principle. Soldiers are generally recruited from the lowest dregs of the community, and are often allured into the service by means of dissipation. He recommends that what is so bad in principle should at all hazards be abandoned ; but, till this is done, it is more essential that there should be a high tone of principle in Commanding Officers to correct the gross material of which the army, generally speaking, is composed. 'I have said that education is essential, as well as moral character, and so it is ; look into the habits of

the officers of almost every regiment in His Majesty's service —how are they formed? Do men study at all after they get commissions? Very far from it: unless an officer is employed in the field, his days are passed in mental idleness—his ordinary duties are carried on instinctively—there is no intellectual exertion. To discuss fluently upon women, play, horses, and wine, is, with some excellent exceptions, the ordinary range of mess conversation. In these matters lies the education of young officers, generally speaking, after entering the service.' The junior officers should be required to prosecute such studies as may be best calculated to enlarge their minds and improve their judgments; and their progress, even in their corps, should be made dependent upon their acquirements, professional or otherwise. Admitting the character of the recruits to be too generally what he has described it, and that there must be a multitude of characters to be deterred from crime only by the terrors of punishment, he contends that even in such men reform to a very great extent might be expected, or crime at least abated, if preventive measures were resorted to, and these can be hoped to flow only from a well-regulated corps of officers. 'If the officers were not seen so habitually walking in the streets in every garrison town, the soldiers would be less frequently found in public-houses.' For the non-commissioned officers he recommends similar measures of instruction; and complains of the general incapacity of the Sergeant-Schoolmaster, who should be a person of altogether higher caste than any now employed, and should rank with the Quarter-Master, so as to give him more influence. Every Commanding Officer should be enjoined to consider the business of the regimental school an object of his daily regard, quite as important as the duties of the parade. With respect to the private soldiers, he considers that punishment is unjustifiable, unless it can be shewn that every proper measure for the prevention of crime has been previously used. 'Punishment, I apprehend, is properly resorted to, not as a just vengeance upon the offender for the crime of which he has been guilty, but as an example to deter, while he himself is corrected, other soldiers from transgressing the laws.' He holds the example of the officers to be the most efficient means of preventing crime among the soldiers, and of raising their minds above the gratification of mere animal desires. Unhappily, even at present, although less so now than formerly, their notions of happiness and their enjoyments rise no higher than the debauchery of a brothel or the license of a public-house.

The barracks should be made as comfortable as possible, and encouragement be held out to induce the soldiers to take their recreation within the barrack walls ; the soldiers' wives should be more comfortably accommodated ; more comfortable provision should be made for soldiers worn out in the service ; and recruiting should be conducted on better principles. The beneficial effects of a careful apportionment of rewards and punishments, and of an unwearyed effort to bring into operation the various preventives of crime, have been exemplified most satisfactorily in this colony (Van Diemen's Land) in dealing with the convicts. Punishment, properly speaking, forms no part of military discipline—it is rather its opprobrium. The lash or the jail should be always considered as the last resort. The grand aim should be to prevent the commission of crime, not through the influence of fear, which is itself degrading to the soldier, but by supplying his mind with intellectual resources calculated to render him less dependent for amusement upon animal gratifications."—(*Appendix to Report of the Commissioners on Military Punishments*, p. 118.)

Until the reign of Queen Anne, the benefit of clergy was allowed to such persons only as could *read*, and when, consequently, the illiterate were doomed to die for offences for which a slight punishment only was inflicted on those who had received some education, the convict suffered the greater punishment because the parents had neglected his education, and thus the sins of the parents were visited upon the children. In like manner it may be asked, do not soldiers suffer from the neglect or inattention of Government, when they are punished for offences which have been committed from ignorance, and when no attempt has been made to give them a moral principle of action ?

Early in the present century schools were established in each regiment for the care and instruction of the *children* of non-commissioned officers and soldiers. The alleged object of these institutions is to implant in the children's minds early habits of morality, obedience, and industry, and to give that portion of learning which may qualify them for non-commissioned officers,—to raise from the offspring of soldiers, "*a succession of loyal subjects, brave soldiers, and good Christians.*" Although regimental schools are chiefly intended for boys, as a nursery for the army, yet the female children of soldiers are also allowed to partake of the benefits of these establishments, whenever the accommodations and other circumstances will permit. Each regi-

mental school is conducted by a Sergeant-Schoolmaster, who receives 6*d.* a day extra, but not until he has been employed as a schoolmaster for ten years. The Sergeant must be able to read and write, and be somewhat acquainted with arithmetic; but I am not aware that any other qualification is necessary for the appointment; and it is not to be expected that Schoolmaster-Sergeants have any acquaintance with the correct methods of conveying religious and secular instruction, or of the proper mode of conducting the moral and industrial training of children. Soldiers are permitted to attend these institutions, but attendance at school is not usually considered a part of their duty, and the schoolmaster's discipline is, therefore, commonly evaded. A schoolmistress has lately been attached to each regiment, who receives a salary of 1*s.* 8*d.* a day, being within 3*d.* of the pay of the Schoolmaster-Sergeant. It is hardly necessary to observe, that neither great talents nor much zeal can be expected in a Sergeant whose allowance is so limited.

So far as my information extends, greater attention has been paid to the schooling of the children of soldiers in India than elsewhere. Among the many important measures introduced by the Marquis of Hastings, when he was Governor-General and Commander-in-Chief, was the liberal encouragement given to regimental schools, by the appointment of an assistant-master, and an additional mistress and assistant, with monthly salaries, to each European corps, and by calling upon the resident clergymen to lend their active aid in the superintendence of these useful and benevolent institutions. He also established barrack libraries at each of the seven European cantonments on the Bengal establishment. Lord William Bentinck states (*Evidence on Military Punishments*) that the soldiers in considerable numbers attend the schools, and make a rapid progress in reading and writing. "In India," says he, "the regimental libraries of the soldiers generally contain from 500 to 600 volumes of well-chosen books; they receive the leading newspapers, and their reading rooms possess comforts and convenience." Libraries are of inestimable advantage to persons who can read well and who have a taste for reading, but they are of comparatively little benefit to soldiers who do not know the alphabet, or who cannot read without much difficulty,—and, unfortunately, the latter class is by far the more numerous in the army. Institutions for the intellectual culture and moral improvement of soldiers should be specially adapted to the unlearned, not to the well-

informed,—to the greater number, and not to the few who have made some progress in the elements of information.

The following is extracted from the Rev. Mr. Allen's *Diary of a March through Scinde and Affghanistan with the Troops, &c. &c.*, p. 205 :—

An excellent plan was adopted in the 40th Regiment, of requiring each non-commissioned officer to pass a fresh examination in some higher branches of arithmetic, &c., before he could attain the next step in promotion. This plan kept the school well filled with adults, and gave all those who aimed at promotion a direct motive for diligence in study, besides supplying the regiment with respectable and well-conducted non-commissioned officers. It is much to be wished that the plan were universally adopted. Finding employment for the men, and fitting them for rational amusement and occupation, would do much to abate drunkenness and disorder, and render punishments unnecessary. As a proof of this, during the whole time (nearly two years) I was with Her Majesty's 40th Regiment, though necessarily a period of great license, there was not an instance of corporal punishment; and when we subsequently joined the army of reserve at Ferozepore, though several European corps met together, not one man in the whole regiment who was warned for duty was ever found drunk.

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## CHAPTER IX.

### URBANITY TO SOLDIERS.

Is it essentially necessary, for the preservation of military discipline, that soldiers should be treated by officers with less urbanity than adults in civil life? "There used," says Dr. Cheyne, "to be the greatest coarseness and severity in the treatment of men in hospital; nay, medical as well as military officers frequently treated common soldiers as if they belonged to an inferior order of beings. I have often," he adds, "heard soldiers called the greatest villains on the face of the earth, only to be kept in subjection by the lash." This degree of folly and inhumanity is happily now become obsolete, but there is still room for amendment in regard to the treatment of soldiers. During the last century, the commissioned officers in the French army appear to have assumed a remarkable degree of superiority and importance over common soldiers.

When a commissioned officer (says Colombier) is so generally esteemed, whence comes it that the people have such a dislike to become soldiers, and whence that contempt which is entertained for their condition? If to serve the King and the country with courage,—if to perform distinguished actions, be highly valued, do we not find these virtues in the soldier? A soldier undergoes more fatigue than officers, but should he on that account be less esteemed? It may be said that he belongs to the dregs of the people,—the lowest class of the population; but his original condition and his services should not be confounded. Should we treat the condition of a soldier with disdain, because it is subordinate? Of what importance is that? Is it not the object or peculiar duty of the army to maintain order and public tranquillity? I believe I can assign a more conclusive reason, which is, that plebeian officers, full of self-conceit, endeavour to emulate the class of nobility in haughtiness and the affectation of superiority: hence, in my opinion, is the cause of the contempt which they shew to the subordinate ranks, and hence the origin of the popular repugnance to the army.—(*Code de Médecine Militaire*, vol. i., p. 144.)

The merits and exertions of private soldiers are often undervalued, or completely overlooked; for, according to the popular opinion of military operations, in defeat we think of the fate and in victory of the talents and glory of the commissioned officers, more especially of the Commander-in-Chief of the army. "Glory and fortune," says an anonymous author, "are for others—not

the common soldier. He displays his constitutional bravery, without effort, from the dogged instinct of his nature. He refuses to be beaten ; but, when his firmness and perseverance are at length crowned with success, and he stands victorious on the bloody field, what is it all to him ? Not one leaf of that laurel which his sweat and his blood have earned will ever descend, even by reversion, upon his unhonoured brow."

Discipline may, it is hoped, be supported without harshness and without severity. There are so many excellent remarks in regard to the treatment which is due to soldiers by officers, in the following reprimand which was given to an officer by Lieutenant-General Sir Samuel Auchmuty, who commanded the troops in the Madras Presidency, that I shall make no apology for transcribing it *verbatim* :—

Lieutenant B——, you have been found guilty (by a court-martial) of very unofficerlike conduct, in striking a soldier, which your duty to the service, your feelings towards a brave man, whose profession would seem to forbid so ignominious an act, ought to have restrained you ; and the Commander-in-Chief views with great displeasure both the act and the motive. Your future conduct His Excellency hopes will be more guarded, and that, with reference to your own feelings, you will learn to appreciate those of every other soldier, even those serving in the ranks ; and that you will remember, that their valour, their pride, and fidelity to their King and country, can be maintained only by preserving, with unblemished purity, the principles that dictate those virtues which enable their officers to reap honour and distinctions at their head. It is the duty of every officer to keep in mind, that discipline and subordination are to be maintained without severity ; that the faults of soldiers more frequently arise from relaxation of discipline than from bad disposition. The remedy, therefore, is not severity ; it rests with the officers, whose characters are to be traced by the state of their corps and companies.

The Commander-in-Chief takes this opportunity of directing that the use of *rattans* at drill may be abolished, and that no officer or non-commissioned officer is ever, on pain of being tried for *disobedience of orders*, to strike or cause any soldier to be struck, without the previous sentence of a court-martial.

Much care is taken in the French army to prevent any indignity being offered to soldiers of any rank by superiors. In the *Military Regulations* it is stated, that "an instructor shall not touch a recruit, even to rectify his faulty position, unless his want of intellect require it." "If an officer were to strike a soldier, and the man were to run him through, I imagine (says a French officer) the soldier would not suffer for it ; he would, at least, be fully authorised to strike him again. A superior striking an inferior, makes the inferior his equal."—(*Evidence on Military*

*Punishments, Quests.* 4575 and 4576.) “Many cases of what is called mutinous conduct arise from the improper way in which non-commissioned officers speak or give orders to the men.”—(*Memorandum—Horse Guards, 24th June, 1830.*) Non-commissioned officers are commonly much influenced by the example of their superiors in the treatment of soldiers. When a commissioned officer addresses a private with asperity or peevishness in the hearing of a non-commissioned, he thereby sanctions, in a greater or less degree, whatever harshness the subordinate official may inflict.

All men have a right to be treated with courtesy and consideration; but soldiers, who have surrendered their independence, have a peculiar claim to the kindness of superiors, inasmuch as their wellbeing depends almost entirely upon the favour and attention they may receive from those individuals under whom they are placed. Officers who appear to take an interest in the welfare of soldiers, and who show a moderate degree of attention to their wants and their wishes, are invariably esteemed and respected; and I am convinced that their commands will be more effectually obeyed than when coercive measures are unintermittently employed to enforce them. Vituperative abusive language, such as is described by Dr. Cheyne, applied to a soldier by a medical officer, or domineering austere conduct in hospital, is very unseemly, and highly reprehensible. “Harshness to soldiers,” says Dr. Hamilton (*Duties of a Regimental Surgeon considered*) “is cruelty, more especially in a medical officer.” In the *Instructions to the Medical Officers of the French Army*, 1831—“Il est expressément recommandé aux officiers de santé en chef, et au comptable, de veiller à ce que leurs subordonnés traitent les malades avec douceur et bienveillance.”

But, according to the General Regulations of the French army, the officers are admonished that circumspection is indispensable, and that austerity of manner is to be avoided,—that, to exercise an undue reserve in their intercourse with their subordinates, is to deprive themselves of their attachment. They are also instructed to be affable, courteous, and free in their demeanour; and that they must bear in mind, that oppression excites and fortifies resistance, while moderation tempers effervescence, and eventually restores to obedience those who have offended.

Mr. Macdiarmid, who published his work on *Military Subordination* in 1806, strongly reprobates the practice which he alleges prevailed when he wrote, of officers abusing and ill-

treating the soldiers under their command. "The harsh, brutal, and often unjust treatment," says he, "which soldiers experience, so very different from what any man durst use in civil life, sours their minds, and makes them hate a service which subjects them to such galling distresses."

On this important subject I have much pleasure in quoting the sentiments of an Old Officer :—

Look upon the soldiers (says he, in his address to Officers of the army) under your command as servants to the same Royal Master with yourself, and not as slaves,—a light they are too often placed in by a great number of young officers. Consider that without them you would be of no consequence, and that their good or bad behaviour reflects either glory or shame upon you; therefore, make it your study to obtain their obedience by love rather than by fear. I know this is considered servile by some,—but be assured it has no foundation in fact, and that an affable, courteous behaviour, from an officer to his soldiers, cannot fail of gaining their love and confidence, which is certainly more eligible than their hatred and disesteem, whatever may be thought to the contrary. \* \* \* \* Are they guilty of an unpardonable crime? then confine them, without insults, and let the martial law take its course. It is no part of duty, either as a soldier or a Christian, to add insults to confinement. Whatever orders you have to give them, let it be done in an easy, genteel manner, without oaths; for it is highly disagreeable to hear a man, because he is my superior in rank, preface his orders with "D—n your bl—d, Sir, I order," &c. &c. Be assured of this, that men love to be used as men.—(*Cautions and Advices to Officers of the Army*, 1760.)

Sound policy, honesty, and humanity, will, it is hoped, eventually lead to an alleviation of the punishments in the army. The severe punishments and harsh usages of soldiers are the results of old causes; and our generation has the honour of contributing to their improvement, while the disgrace of their existence belongs to a former state of society. We see the progress of melioration, silent but sure, in the army, by which means more beneficial effects will be produced than are generally anticipated. Attention to cleanliness, and an ample supply of nutritious food, will contribute greatly to preserve the health of soldiers; but humane treatment is of immense importance in preventing disease in an army; so much so, that the saying is not far from truth, that a kind Captain has generally a healthy company.

As a proof of the beneficial influence of civilization, I may state, that on the 1st May, 1844, the Emperor of Russia "issued an ukase, in which (as already in the Imperial Guards) the bastinado is prohibited in the whole army, except in cases of extraordinary criminality, and in such cases the punishment

is not, as was formerly the common practice, to be inflicted at the discretion of the Colonel of the regiment, but by virtue of a sentence pronounced by a court-martial. Those persons who act against these orders are to be severely punished."

The King of Prussia also has wisely and mercifully determined on the restriction of flogging in his dominions ; and there can be no doubt, that in proportion to the justice and respect with which he treats his soldiers, they will become attached to his service, and worthy of serving him, for he will govern men, and not slaves ; he will himself, by this act, reap honour not only for a deed of justice and humanity, but for the elevation of the character and morals both of men and officers.

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## CHAPTER X.

### PENSIONING OF SOLDIERS.

I AM greatly disposed to think that permanent pensions should be granted only to men who have been wounded and disabled before the enemy, and men who have completed a specified period of service ; and that conditional or temporary pensions should be awarded to those who are discharged in consequence of being deemed unfit for service, and who have not served the number of years which would entitle them to a permanent annuity. One great *desideratum* in the pensioning of soldiers is to excite a willingness —a disposition to serve ; and to obtain this there does not appear to be a more rational scheme than for the nation to measure its rewards by length of service, and, by no other standard whatever, except for injuries received in action. Under these circumstances, a soldier's pension may be considered as part of his contract. According to this plan, military pensions would be arranged into two classes, the first comprehending two subdivisions, namely :—

#### *Class I.—Permanent Pensions.*

1st Subdivision.—*Disabilities received in action.*—1st degree, or severest grade of injuries ; 2nd degree ; 3rd degree.

2nd Subdivision.—*Length of Service*—(say 15 years' service).

#### *Class II.—Temporary Pensions.*

*Disabilities contracted during the performance of Military Duty, under — years' service.* (Temporary pensions to be granted, in duration and amount according to length of service and degree of disability.)

Under this system, a soldier might be permitted to have the option of claiming and obtaining his discharge after ten years' service, and, under suitable regulations, at any subsequent period. After eleven years' service, he should have a claim of right to

receive his discharge and a gratuity of 5*l.*; and, from eleven to fifteen years', a free discharge and a gratuity of 5*l.* for each year's service between these periods. After fifteen years' service, a soldier should receive an annuity for life of 4*d.* a day; after sixteen years', 4*½d.*; after seventeen years', 5*½d.*; after eighteen years', 7*d.*; after nineteen years', 8*½d.*; after twenty years', 10*d.*; and after twenty-one years', 1*s.*

There are some excellent practical remarks upon this subject in the *United Service Journal*, (February 1835). It does not come within my plan to fill up the details of this scheme, which professes to be merely a suggestion, capable of being modified and extended into a practical system.

Under the impression that a comparative statement of the pay and pensions in the Royal navy and in the army will be considered interesting, I subjoin a brief notice of the emoluments of common seamen in Her Majesty's naval service, and the rewards and pensions to which they are entitled for length of service and wounds.

The crew of a ship, exclusive of the commissioned ranks, consists of petty officers, able seamen, ordinary seamen, landsmen, boys, and marines. In time of peace, they are entered voluntarily; and, by an Act passed in 1835, a man is allowed to enlist in the navy for a period not exceeding five years, after which he is entitled to his discharge, and to be sent home, if abroad, unless the commanding officer should consider his departure to be detrimental to the service. Such officer is then empowered to detain him six months longer, or until the emergency shall cease; in which case the man is entitled, during such extra service, to receive a higher rate of pay. At the end of his time of service, a seaman may re-enlist for a like period as before. During war, recourse is usually had to *pressing* men. Landsmen, who have *not* served two years at sea, are exempted from the press. To preserve order, the Captain or Commander of every ship or vessel is authorised to inflict corporal punishment on any seaman, marine, or boy, twenty-four hours after an offence is committed, by warrant under his hand.

The following abstract shews the daily allowance of provisions to every person in the fleet at sea, and for which no charge is made by Government:—

### *Seaman's Ration*

Salt beef,  $\frac{1}{2}$  lb.  
Flour,  $\frac{2}{3}$  lb.  
Biscuits, 1 lb.;  
Cocoa, 1 oz.;  
*Weekly.*—Vinegar,  $\frac{1}{2}$  pint:  
and alternately  
Peas,  $\frac{1}{2}$  pint.  
or wine, 1 pint.  
sugar,  $\frac{1}{2}$  oz.  
salt pork,  $\frac{1}{2}$  lb.  
and  
salt and  
peas,  $\frac{1}{2}$  pint.

1 lb. of raisins, or  $\frac{1}{2}$  lb. of currants, or  $\frac{1}{2}$  lb. of suet, may be received in lieu of flour, by which means a seaman may have pudding materials substituted for part of his flour.

The ration of the seaman is not only ample for three excellent meals a day, but these may be varied in no small degree according to the option of individuals.

### *Soldier's Ration*

### *Temperate Climates.*

## *Tropical Climates*

1 lb. of bread, or  $\frac{3}{4}$  lb. of biscuit.  
1 lb. of fresh or salt beef or pork.

The same as in temperate climates, except that on two days of the week the issue of salt pork is reduced to 12 oz., and the soldier receives, in lieu of the remaining 4 oz., a daily issue of— $\frac{1}{2}$  oz. of cocoa,  
 $1\frac{1}{2}$  oz. of sugar,  
 $\frac{1}{4}$  lb. of rice, or  
 $\frac{1}{4}$  pint of peas.

The ration of a soldier, which costs him 6d., will, with the requisite vegetables for soup, &c., tea or coffee, and sugar—all of which he must purchase—only furnish him with two comparatively scanty meals daily.

<i>Pay of Seamen (per month of twenty-eight days).</i>	<i>Pay of Soldiers (daily).</i>
	<i>s.</i> <i>d.</i>
Able Seaman . . . . 1 14 0	Under 7 years' service . . 1 1
Ordinary Seaman . . . . 1 6 0	Under 14 years' " . . 1 2
Landsman . . . . 1 3 0	Above 14 years' " . . 1 3
	or from 16s. 4d. to 21s. per month of twenty-eight days, after paying for the daily ration.

Consequently, the able seaman's pay is more than double that of a soldier. As to clothing, a soldier receives, gratis, a cap every two years, and a coat, with a pair of trowsers, and a pair of boots, annually. He is, however, liable to numerous stoppages, to purchase the other articles of clothing he requires, &c. &c.,—by which means the surplus of his daily pay is sometimes reduced to 2d. or 3d. a day.

*Scale of Pensions in the Navy.*

There are about 2700 pensioners in Greenwich Hospital, who are amply provided for.

*Out Pensioners.*

1st Class of Pensions.—*Length of Service.*—After twenty-one years' service, reckoning from the age of twenty, from 10*d.* to 1*s* 2*d.* a day.

2nd Class.—*Wounds received in Action*—From 6*d.* to 2*s.* a day.

3rd Class.—*Disabilities contracted in the Service after fourteen years' service in the Navy*—From 6*d.* to 9*d.* a day.

4th Class.—*Disabilities contracted under fourteen years' service*—From 3*d.* to 6*d.* a day.

An outline of the relative condition of seamen in Her Majesty's navy and soldiers in the army is subjoined:—

*Seamen.*

1. Seamen may enlist for any period under five years.

2. Seamen are usually employed in comparatively healthy climates,—the annual ratio of mortality during peace, in three important stations, namely, the South American station, West Indian and North American station, and the Mediterranean and Peninsular station, being 10·9 per 1000.

3. A seaman may save a large portion of his pay, having no provisions to purchase.

4. A seaman in the navy is practising his profession, and consequently improving himself in his craft.

5. Seamen have a claim of right to be discharged, after serving twenty-one years, and to receive a pension of from 10*d.* to 1*s* 2*d.* a day.

6. A seaman, if discharged as disabled for the navy, after fourteen and under twenty-one years' service, is entitled to receive an annuity of from 6*d.* to 9*d.* a day.

*Soldiers.*

1. Soldiers are all enlisted for unlimited service—for life.

2. The mortality in the army is, as has been stated, about thirty-seven per 1000, being more than three times the mortality in the navy.

3. A soldier, having to pay for his provisions, and a considerable portion of his clothing, is unable to save much, if any of his pay.

4. Soldiers seldom or never practise their trades, and, as may be supposed, they lose their skill as artisans,—they become, therefore, annually less fitted for earning a livelihood in civil life.

5. A soldier may be discharged by *indulgence*, at his own request, after twenty-one years' service, but he is not then entitled to a pension; after twenty-five years' service, and discharged at his own request, he may receive 6*d.* a day.

6. A soldier, if discharged as disabled, after fourteen and under twenty-one years' service, and if he be *unable to work*, may be awarded an annuity of from 6*d.* to 8*d.* a day.

*Seamen.*

7. Seamen who are discharged as disabled, but who have not served fourteen years, are entitled to a permanent annuity of from 3*d.* to 6*d.* a day.

8. An Order was lately issued, whereby a seaman who has a pension is, if employed in the navy, allowed to draw his pension in addition to his pay.

*Soldiers.*

7. A soldier who is discharged as disabled for the army, under twenty-one years' service, may be awarded a *temporary* pension of 6*d.* a day, for a period extending from one month to five years.

8. When a pensioner re-enlists in the army, he forfeits all right to pension while serving.

It is obvious, therefore, that there are substantial reasons for the popular preference of the navy—a preference which appears to have existed sixty or seventy years ago, when Dr. Adam Smith published his work on the *Wealth of Nations*. “Recruits,” says he, “figure to themselves, in their youthful fancies, a thousand occasions of acquiring honour and distinction, which never occur. These romantic hopes make the whole price of their blood. Their pay is less than that of common labourers; and in actual service their fatigues are much greater. The son of a creditable labourer or artificer may go to sea with his father's consent; but if he enlists, it is always without it. Other people see some chance of his making something by the one trade, nobody but himself sees any of his making anything by the other.”

To meliorate the condition of soldiers,—to exalt their moral and intellectual character,—to promote their well-being and respectability, without lessening their efficiency as military servants of the State, have been my principal objects in the preceding pages. I have suggested, that soldiers belonging to infantry corps should be enlisted so as to give them a claim of right to be discharged, should they wish to leave the army, after a service of ten years; and considering the nature of the duties of the British army, and the very small number of men who are fit for the arduous duties of the service after having reached forty years of age, I am decidedly of opinion, that a man who has served twenty-one years should be entitled to an annuity of 1*s.* a day for life. If abroad, and the Commanding Officer should conceive the departure of a man, who had completed ten years, detrimental to the service, such officer might be empowered to detain him six months longer, or until the emergency cease, in which case the man should be entitled to receive an increased rate of pay. Under similar circumstances, in the navy, when a seaman is

detained beyond the period of his enlistment, he becomes entitled, during such extra service, to an increase amounting to one-fourth of that which he receives according to his rating. With respect to the propriety and expediency of granting men the right of leaving the army with a pension adequate to procure the means of subsistence, after twenty-one years' service, I believe the great majority of experienced military and medical officers concur in the opinion, that although a soldier's constitution may be good, and his health not unsound, the vigour of his active strength has passed away by the age of forty, and that he is in general incapable of performing the duties of a soldier of the line. This conclusion is amply borne out by the statistical reports of the army, from which it appears that not above two or three per cent. of the troops on foreign service have served more than twenty-one years. I am also of opinion, that no man who has served twenty-one years should receive a smaller annuity than 1s. a day. Provided no permanent annuity be granted under fifteen years' service, the rewards for long service should be liberal; and after twenty-one years', the allowance should be capable of supporting a man. The more striking the honourable example of an old soldier enjoying his pension, the more likely is it to contribute to spread a military feeling in the neighbourhood. But to repay the retired soldier by a pension inadequate for his sustenance, must have the effect of consigning him to the workhouse, and of sinking him and the army in the estimation of the working class of the population, destroying all military feeling, and, whilst the soldier is serving, weakening those important aids to discipline, the cheerfulness and satisfaction which the prospect of a pension, after a definite period, inspires. Hope is essential to happiness, and happiness promotes good morals, together with that concentration of all military virtues—obedience.

There is another subject connected with the well-being of soldiers, and ultimately with the good of the service, which deserves consideration, namely, the comfortless condition of the barracks. "Much of the dissatisfaction of soldiers," says Sir Henry Hardinge, "and their disposition to desert or marry, is caused by the want of agreeable occupation in barracks." The unemployed time which a soldier spends in barracks, is the cause of many irregularities and offences. "He is frequently not allowed to mend his shoes or smoke his pipe in his barrack-room, on the plea of ensuring cleanliness very prejudicial to his real comfort." "Too many soldiers are crowded together in one barrack-room;

the rooms should be capable of receiving only ten or twelve men, instead of sixty or seventy." "Thus the soldiers frequently live in restless misery ; four or five blackguards destroy the comfort which the rest would have in a quiet occupation."—(*Evidence on Military Punishments.*) When the rooms are small and the men selected, a sort of harmony and good fellowship follows, which tends to keep the men in barracks, and out of the pot-house. Some of the barrack-rooms in this country have no fire even in winter ; and they all want many of the conveniences which are considered indispensable in very ordinary dwellings.

Much more attention should also be paid to the furnishing of soldiers with the means of ablution in barracks. For want of all convenience of this kind, soldiers frequently wash their hands and face by filling a small tin with water at the pump, from which a man takes a mouthful, which is squirted out into his hands, and subsequently applied to the face. With such a want of artificial means of ablution, how can it be expected that soldiers should acquire habits of tidiness and cleanliness ? Another subject deserving consideration is, the condition of the soldiers' wives. When females receive the sanction of the Commanding Officers to reside in barracks, decency demands that some conveniences should be specially provided for them. In many respects, the condition of females in barracks is deplorable ; and although it would be difficult to render it comfortable, it might, without much trouble or expense, be greatly meliorated.

Greater attention might also be paid, with advantage, to the diet of soldiers. Due care has for a long time been directed to their wants, in as far as the providing of breakfast and dinner is concerned. With respect to the dinner, it may be observed, that in this country it is commonly excellent in quality and abundant in quantity ; but it is unvarying—the same kind of articles, cooked in the same manner, from the 1st January to the 31st December—

Que le vent souffle au nord, ou qu'il souffle au midi,  
C'est toujours du bouilli, mais jamais du rôti.

This might be altered with advantage both to the health and enjoyment of the soldier ; and I would suggest that it should be rendered imperative to furnish soldiers with an evening meal. Old officers may recollect the time when no care was taken to provide them even with breakfast. At present, the dinner hour is usually about one o'clock ; and no arrangement is commonly made to furnish the men with any article of food till breakfast next

morning, being a period of about nineteen hours. I am aware that some Commanding Officers have, with the consent of the men, sanctioned the appropriation of a portion of their surplus pay to furnish a cup of coffee, with a little bread, as a supper; but I would have the measure made compulsory. The advantage of an evening meal, even as regards the discipline of a corps, is of much importance: it helps to keep the men together, and to prevent their lounging about the canteen or pot-house, where, if they get a little spirits when their stomach is empty, they are very liable to become intoxicated.

I attribute many of the offences of soldiers to want of comfort in barracks, and want of hope of being discharged after a specified period. An eminent authoress, remarking upon the horrors of the French Revolution, thus accounts for the cruelties committed:—“On peut trouver la cause dans l'absence de bonheur, qui conduit à l'absence de moralité.”

The happiness of a soldier is, it is hoped, not completely incompatible with his duties: why then continue the slavish system of binding him for life? Allow him a prospect of freedom, and you make him better. A talented, amiable, and upright Judge (Sir William Jones) has observed, “That substantial freedom is both the parent and daughter of virtue, and that virtue is the only source of public and private felicity. I shall go through life,” says he, “with a persuasion that this opinion is both just and rational.” “Teach the soldier,” says Major James, (*Military Dictionary*, Article ‘Soldier,’) “to believe that he has an interest in your cause, pity his weaknesses, cherish his good and noble qualities, instil into his breast principles of honour and rectitude. \* \* \* \* Dissertation upon dissertation has been written about the *pirouettes* of the body; but not a word has yet been said upon the moral discipline of the mind, which certainly must be the essential part, so long as man is a creature composed of body and soul.” “We would endeavour,” he adds, “to elevate and not to depress the soldier's mind: we would treat him as a humble friend, and not as a slave.” Make it his interest to be steady and well-behaved, encourage him to cultivate his mind as if he were destined, at some future time, to fill a higher situation than he now occupies, and I feel confident he will become better.

To effect, in some measure, these desirable objects, it is presumed the measures suggested in the foregoing pages would materially contribute. In particular, the pensions of soldiers for

long service should be greatly increased ; for whatever glory may be awarded to veteran soldiers, is found, of itself, to be very unsubstantial fare,—“especially since experience teaches us,” says Bruce, “that soldiers are not so perfect *chameleons* as to subsist upon mere air,—glory commonly proving but a very cold inducement to excite men to run the many risks, and undergo the various fatigues of war.”

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## CHAPTER XI. A D D E N D A.

THE following information on various points treated in this Miscellany, which I have obtained since the work went to press, appears worthy of insertion.

### Page 5.—*Defensive Military Force.*

A.D. 1745.—Viscount Barrington, then a Lord of the Admiralty, brought forward in the House of Commons, a plan for forming and training a national militia. It was, in its nature, *parochial*, requiring in every parish the attendance of all persons between twenty and forty years of age, with the exception of Roman Catholics and Quakers; and it was proposed to limit the duty to two hours a day during the six summer months. They were to be drilled by Chelsea out-pensioners; and much care was taken to render the plan as little as possible liable to objection on account of personal inconvenience. Lord Barrington did not succeed in getting his plan sanctioned by the House of Commons.

### Page 88.—*Enlistment.*

I am but imperfectly acquainted with the legal mode of enlisting recruits in the African corps, or whether it differs from the form prescribed by the Mutiny Act. In the early part of the present century, few, if any, of the negroes in the black corps had been enlisted as British soldiers, being mostly slaves bought and enrolled, and who remained slaves in the consideration of the Legislature and Courts of Judicature in the West Indies. Sir William Young (*West India Common-Place Book*) mentions an instance which came under his own notice, of a negro corporal being brought forward by his officers to give testimony on a question of riot and assault, when his evidence was deemed inadmissible, and, as such, rejected by the Chief Justice, Mr. Ottley, on the ground of his being a *slave*.

To legalize any manumission and constitute a free negro, it was provided by colonial law, that security should be entered into, and lodged with the Public Treasurer of the island for an annuity of 10*l.* sterling, for provision and subsistence to the negro made free.

### Page 127.—*Punishments in the Army.*

*Profane Cursing and Swearing.*—In 1746, an Act was passed (19th Geo. II., cap. 21) more effectually to prevent profane swearing. By this Act, every person convicted of profanely cursing or swearing

was rendered liable to a fine of 1*s.* if a day labourer, or a common soldier, or sailor, or seaman,—of 2*s.* if any other person under the degree of a gentleman,—and of 5*s.*, if a person of, or above the degree of a gentleman; for the second offence, double; and for every subsequent offence, treble the sum first inflicted. In default of payment of these fines, offenders were to be sent to the house of correction, and there kept to hard labour for ten days, except common soldiers, sailors, and seamen, who were to be put in the stocks an hour for every single offence. It would appear that soldiers were liable to other punishments than *fine* or being *set in the stocks*, for we are informed in a periodical that “at Glasgow, on Sunday, 23rd November, 1746, a soldier rode the *mare* (wooden horse) with a paper on his breast denoting his crime, namely, for transgressing the laws against cursing and swearing.” The section of the Act which required it to be read in all parish churches four times a year, was repealed by the 4th George IV., cap. 31: the other parts of the Statute still remain in force.

Page 257.—*Trial of Governor Wall.*

The case of Governor Wall having been several times alluded to in the preceding pages, I subjoin an account of his trial and execution:—

Governor Wall was tried by a special commission, directed to the Lord Chief Baron Macdonald, Judges Rook and Lawrence, and the Recorder of the Old Bailey, 20th January, 1802.

The prisoner, Joseph Wall, Esq., some time Lieutenant-Governor of Goree, was charged with the wilful murder of Benjamin Armstrong, a Sergeant in the African corps, on the 10th July, 1782, by ordering him to receive 800 lashes, which were inflicted by several black slaves, with such cruelty as to occasion his death. It appeared in evidence before the court, that a party of soldiers, of which Armstrong was one, went to the Governor's house, without arms or any appearance of mutiny, for the purpose of obtaining a settlement of some arrears which were due to them for a short issue of provisions. The men were dismissed by Governor Wall with threatening language; and on the afternoon of the same day, a public parade of the garrison having been formed, Sergeant Armstrong was singled out, and after being ordered to strip, was tied to a gun carriage, and flogged by five or six blacks with a rope. The Governor stood by, urging them, through the medium of an interpreter, to do their duty, using at the same time the most gross and inhuman language. The punishment was not preceded by a court-martial, and there was no appearance of mutiny. Governor Wall left Goree on the 11th, and Armstrong died on the 15th July.

The prisoner, in his defence, failed in proving that the men were in a state of mutiny, or that Armstrong had been tried by a court-martial. He was found guilty by the jury, sentence of death was passed upon

him, and that he should be executed on the 22nd January. His body was to be delivered to the proper authorities, for the purpose of dissection, according to the Statute. His case was considered by the Privy Council, who did not recommend him to his Sovereign for mercy. He was executed on the 28th January, having been respite from the 22nd. On his arrival at the scaffold, three successive shouts of savage exultation and triumph burst from an innumerable populace, which deprived the unhappy man of the small portion of fortitude he had summoned up.

Governor Wall was a native of Dublin, and was allied by marriage to many noble families, his wife being sister to Lord Seaforth. He was at the reduction of the Havannah, in 1762, on which occasion his bravery was conspicuous; and having been recommended by General Forbes, who commanded, he received promotion. He was Lieutenant-Governor of Goree, but the office of Chief-Governor becoming vacant, he acted in that capacity for about two years. He was Colonel-Commandant of an African corps, and Superintendent of Trade to the colony.

On Governor Wall's arrival in England in 1782, he found various charges had been made against him by two commissioned officers; and having cleared himself of these imputations, he went to Bath, and heard nothing of any other charge until two messengers came to him from Lord Sidney. He asked them if they had any warrant, which they had not, but he accompanied them in a chaise and four. He paid the bills, and at Reading ordered supper in the usual way, and absconded. He stated that he did not then know anything of the charge against him respecting Armstrong, but various other injurious reports respecting him had been circulated. The messengers refused to tell him the cause of his arrest.

Having made his escape to the continent, he remained there many years. It has never been ascertained what were his motives for surrendering himself: the most probable cause that can be assigned is, that some property had devolved to him, of which he stood greatly in need, but which he could not claim till his outlawry had been reversed. He therefore voluntarily gave himself up, having addressed a letter to Lord Pelham, dated 25th October, 1801, stating that he had returned to England, for the purpose of meeting the charge against him. One of the persons whom he had summoned to give evidence in his favour, dropped down dead on the way to the court; it was, however, known that his testimony would have borne against him. Witnesses appeared from different parts of the island, whom it is presumed he had supposed dead. His offence was, indeed, heavy, but never did human being suffer more heavily. The body, according to custom, was suspended an hour; and during this time, the Irish basket-women, who sold fruit under the gallows, were drinking his damnation, in a mixture of gin and brimstone. The halter in which he suffered was cut into the smallest pieces possible, which were sold at a shilling each. According to report, his body, which should have been dissected, was just opened as a matter of form, and then given up to his relations; for which indulgence they gave 100*l.* to one of the public hospitals.—(Southey.)

In private life Governor Wall was mild and agreeable; but in the exercise of his public duties, he is represented as having been arrogant, harsh, and cruel, to both officers and men.

## CHAPTER XII.

## NUMERICAL STATISTICS OF THE ARMY, from 1814 to 1839.

*Return showing the Strength of the Regular Army, including India, Augmentations, Reductions, in each Year, from 1814 to 31st March, 1839, both inclusive; the Number of Chelsea Pensioners, and the Charge thereof; the Increase and Decrease in the Number; the Number of Men to whom permanent or temporary Pensions were granted; and the Number of permanent Pensions taken off the List.*

Year.	RANK AND FILE.			Number of Pensions granted.	Total Number of Pensioners.	Number of Permanent Pensions taken off the List.	Increase of Numbers.	Decrease of Numbers.	CHARGE.		
	Effective on 25th January.	Estd.- blishment.	Increase.						(a)	(b)	
1814	237,946	270,260	..	11,697	31,201	1,659	..	..	511,947	16 7 <i>1</i>	
1815	194,977	214,136	..	56,124	43,531	4,687	12,330	..	641,542	13 2 <i>1</i>	
1816	175,649	178,752	..	35,384	14,76	47,176	3,032	(b) 3,645	763,699	16 11 <i>4</i>	
1817	145,993	124,952	..	63,800	6,691	64,217	2,556	17,041	887,864	2 6	
1818	123,269	118,766	..	6,186	5,023	70,091	2,882	5,874	923,450	5 10 <i>1</i>	
1819	102,860	89,710	..	29,056	5,723	75,051	2,275	4,960	966,620	11 11 <i>3</i>	
1820	98,979	100,068	10,358	..	2,360	68,548	3,691	..	895,044	6 6 <i>1</i>	
1821	96,190	90,456	..	9,612	4,180	69,446	1,953	..	902,984	3 6 <i>2</i>	
1822	84,412	82,054	..	8,402	2,900	81,365	4,639	(d) 11,919	..	909,696	5 10 <i>1</i>
				15,379	—	—	—	—	—	—	
				3,635	..	81,189	4,706	..	176	1,235,252	19 0
				3,226	..	81,288	4,246	99	..	1,242,344	13 4 <i>1</i>
				2,894	..	81,877	3,694	589	..	1,268,039	19 10
				57	..	82,734	3,413	857	..	1,297,947	5 9 <i>1</i>
				3,963	..	85,515	3,461	(e) 2,781	..	1,336,556	4 7 <i>1</i>
				1,460	3,364	168	..	319	..	1,346,553	12 9
				275	2,381	194	65,834	2,970	..	..	..
Transferred from Kilmarnock Hospital.											
1823	81,713	82,606	552	..	..	..	..	..	..	..	..
1824	83,720	87,862	5,266	..	..	..	..	..	..	..	..
1825	85,638	91,595	3,733	..	..	..	..	..	..	..	..
1826	97,325	105,274	13,679	..	..	..	..	..	..	..	..
1827	99,707	102,814	..	2,460	3,364	168	..	..	..	..	..
1828	99,334	102,539	..	275	2,381	194	65,834	2,970	..	..	..

1829	96,209	96,139	..	6,400	2,394	291	86,756	3,684	..	..	78	1,323,574	17	3	
1830	92,805	88,102	7,577	(f) 8,357	1,598	388	85,724	3,168	..	..	32	1,346,814	14	101	
1831	88,037	95,679	..	..	1,614	239	84,534	4,622	..	..	1,190	1,334,291	2	44	
1832	to 31 Mar.	95,088	95,837	158	..	1,649	459	81,687	6,120	..	..	2,867	(g) 1,654,465	10	44
1833		93,979	95,791	..	46	1,865	639	77,666	4,576	..	..	4,001	1,399,683	7	01
1833-34	91,460	87,643	..	(f) 8,148	2,013	733	96,538	3,946	(h)	8,872	..	1,359,708	13	34	
1834-35	87,384	87,642	..	..	1	1,910	624	84,960	3,589	..	..	1,578	1,326,658	7	6
1835-36	86,739	87,642	..	..	..	1,901	753	84,559	3,396	..	..	1,401	1,339,158	3	44
1836-37	86,417	87,641	..	..	1	2,074	891	83,556	3,388	..	..	1,003	1,358,289	12	111
1837-38	89,091	90,276	2,635	..	1	2,853	560	(i) 83,861	4,056	305	..	..	1,304,311	3	54

(a) The sums paid on account of the commutation of pensions, from 1814 to 1830, were exclusively granted to pensioners not natives of the United Kingdom, under the authority of the 52nd and George III., cap. 109.

(b) The increase would have been greater, but the pensioners were embodied in Veteran Battalions in 1815.

(c) This decrease arose from the pensioners having been embodied in Veteran Battalions in 1819.

(d) This increase was caused by the transfer of the Kilmainham pensioners.

(e) This increase arose from the final disbandment of the Veteran Battalions in 1826.

(f) The decrease in the years 1830 and 1834 was effected by the army not being recruited to its full establishment.

(g) This increase of charge was owing to the commutation of pensions, and to there being five quarters in 1832-33.

(h) This increase principally arose from the transfer of the Ordnance pensioners to Chelsea Hospital.

(i) There would have been a decrease of numbers but for the addition of 1704 negro pensioners, heretofore paid through the Treasury.

War Office, 9th May, 1859.

(Signed) Howick.



## APPENDIX.

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### PUNISHMENTS IN THE NAVY.

IN the twenty-second year of the reign of George II., an Act was passed, intituled “*An Act for amending, explaining, and reducing into one Act of Parliament, the laws relating to the government of His Majesty's ships, vessels, and forces by sea;*” and in the nineteenth year of George III. another Act was passed, which modified and amended the Act passed in the former reign (1748). These two Acts of Parliament contain, with the requisite modifications, all the rules, articles, and orders, for the regulating and better government of Her Majesty's ships, vessels, and forces by sea.

In the naval penal code above mentioned, there are nine articles, or branches of articles, referring to common seamen, which, on conviction, expressly inflict *death*, without alternative, or leaving any discretionary power to the members of a court-martial to award a milder punishment; and there are about twelve articles which inflict the punishment of *death*, or “*such other punishment as the nature and degree of an offence shall be found to deserve,*” and which a court in its discretion may award. In about ten other articles the word *death* is omitted, and the punishment to which a man may be sentenced is left, both in kind and degree, wholly to the discretion of a court-martial; and as these articles are for the punishment of offences not of so flagrant a nature as in the former two classes of articles, it may be presumed that the Legislature meant to exclude the power of a court-martial to inflict a capital punishment for any of the offences therein specified. In these cases it is left wholly to the discretion of a court-martial to discriminate the shades of guilt, and to inflict a punishment, in quality and amount, proportionate, in their opinion, to the offence, but not affecting life or limb.

Putting to death has been at all times lawful in cases of mutiny; and during the reign of Queen Elizabeth, a court-martial does not seem to have been required for convicting a delinquent. Sir William Monson tells us, that “a Captain under a General

(Admiral) has lawful authority to punish offences committed within his ship ; or if his company grow mutinous or stubborn, he may have recourse to the General, who will inflict more severe punishment (as death) if they deserve it, which no private Captain can do."

In early times, and even during the last century, it would appear that punishments were more severe and certain than during the last thirty years. It was not then uncommon for an offender, guilty of desertion, to be adjudged to suffer death, or to be punished with 500 lashes. By the records of courts-martial, it appears that the sentences awarded at one time varied from one dozen to 1000 lashes. The punishments which it is in the power of naval courts-martial to inflict, are various in their nature and degree. They are from death, the greatest and highest, descending in various shades down to mild reprimand and gentle admonition.

By the 36th Article of War it is declared, "that all other crimes not capital, committed by any person or persons in the fleet, which are not mentioned in this Act, or for which no punishment is hereby directed to be inflicted, shall be punished according to the laws in such cases used at sea." For anomalous offences the old standing customs and usages of the service are directed to be resorted to as a kind of unwritten or common law, which supplies the place of express statutes. A case which was tried in the Court of Common Pleas will illustrate the above Article. The action was brought for an act of violence upon the person of the plaintiff (a Midshipman) in consequence of his disobedience of an order of the defendant, his Commanding Officer, who ordered him to the mast-head as a punishment, according to the usage of the service. The Judge observed, that the custom of the service justified the order, and rendered the punishment legal ; therefore, the disobeying such legal order, justified the measures taken to enforce it, or put it into execution. The jury, without hesitation, returned a verdict for the defendant.

Early in the month of March 1797, a mutiny broke out in the fleet at Portsmouth, the principal subjects of discontent among the seamen being the smallness of their pay, and of the Greenwich pensions, the very unequal distribution of prize money, the excessive harshness and severity of the discipline, and the haughty and tyrannical behaviour of many of the officers. The seamen obtained all their demands, and forthwith returned to their duty. Among the officers charged with oppression, and discarded by

the men, were one Admiral, four Captains, twenty-nine Lieutenants, seventeen Master's Mates, twenty-five Midshipmen, five Captains of Marines, three Lieutenants of Marines, four Surgeons, and about thirteen petty officers. The men refused to receive on board those tyrannical officers, whom they had sent on shore; and Lord Howe, who had been commissioned to settle all matters of dispute, found himself obliged to comply with the decided resolution of the men. How much is it to be regretted, that previous care had not been taken to prevent discontent, by remedying the undeniable evils of which the seamen complained! From this mutiny, however, may be dated a most rapid amelioration in the management and condition of our sailors, with a proportionate improvement in the discipline and spirit of the men, and the gallantry of the officers.

About the middle of May 1797, a mutiny broke out at the Nore, and the mutineers petitioned against the naval code, the 8th Article of their list of grievances being an affirmation, "That the Articles of War, as now enforced, require various alterations, several of which to be expunged therefrom," &c. &c.; thereby expressing an opinion, that the system of discipline and the Articles of War were unnecessarily severe and required relaxation, in order to disabuse seamen in general of the prejudice against the navy. In the letter which the mutineers at the Nore forwarded to the King, through Lord Northesk, they petitioned or urged, "that no punishment should be inflicted on board a King's ship, until the offender had been previously tried and convicted by a jury of seamen."

Courts-martial in the navy are ordered either by the Admiralty or by the Commanding Officer of a station. The punishments to which seamen are liable by the sentence of a court-martial are as follow:—1. *Death*; 2. *Flogging round the fleet*.

The punishments frequently inflicted at the discretion of a Captain or Commanding Officer, and which nothing but the usage of the service appears to authorise, are—1. *Flogging at the gangway*; 2. *Running the gauntlet*; 3. *Starting*; 4. *Keel-hauling*; 5. *Ducking*; 6. *Gagging*; 7. *The spread eagle*; 8. *The wooden collar*; 9. *The barrel pillory*; 10. *Carrying a capstan bar*; 11. *The black list*.

*Execution of the sentence of Death.*—When the King is pleased to approve of the sentence of death, the warrant for execution is transmitted by the Admiralty, to the officer commanding the ships and vessels at the place for the time being, who issues the neces-

sary orders, agreeably to the forms of the service; and, in pursuance thereof, preparations are made. The fatal morning is arrived—the signal of death is already displayed—the assemblage of boats, manned and armed, surround the ship appointed for the execution. The crews of the respective ships are ranged on deck, and after hearing the Articles of War read, and being made acquainted with the crime for which the punishment is inflicted, await, with silent dread and expectation, the awful moment. At length a gun is fired, (the signal to rouse attention,) and at the same instant the unhappy victim, who has violated the laws of his country, is run up by the neck to the yard-arm; the whole spectacle being intended as a warning to deter others from the commission of similar crimes.—(John M'Arthur, *Principles and Practice of Naval and Military Courts-Martial.*)

*Execution of the sentence of Corporal Punishment. Flogging round the Fleet.*—In carrying the sentences of naval courts-martial for corporal punishment into execution, the Admiral or Commanding Officer of the station issues orders to the Captain of the flag, or other particular ship, to make the signal for the boats of the squadron to assemble, manned and armed, on the day appointed, to attend the punishment, and likewise orders the other Captains to send a Lieutenant, with a boat manned and armed, from their respective ships, to attend and assist.\*

An order is at the same time issued to the Captain or Commander of the ship to which the prisoner belongs, (accompanied with a copy of the sentence,) directing him to cause the punishment to be inflicted alongside of the different ships, in the manner, and in such proportions, as therein specified. Directions are at the same time given to the Captain to cause the Surgeon of his ship to attend in the boat with the Lieutenant, as well as one of his Mates in the launch with the prisoner, for the purpose of judging of the prisoner's ability to bear all his punishment, the Surgeon being authorised to recommend that the punishment should be

\* Copy of Orders for carrying corporal punishment into execution in the navy:—

To the Captain of the Flag Ship. By &c.

A court-martial, held the instant, having sentenced to receive 300 lashes on his bare back with a cat-o'-nine-tails, alongside of such of His Majesty's ships and vessels at this port, at such times, and in such proportions, as shall be directed by the Commanding Officer of the said ships and vessels for the time being, you are hereby required and directed to hoist a yellow flag at the fore-topmast-head of His Majesty's ship under your command, and fire a gun at nine o'clock to morrow morning as a signal for the boats of the fleet to assemble alongside of His Majesty's ship , to attend the said punishment.

suspended when he conceives the prisoner is not able to bear more without endangering his life.

The Provost Marshal or Master-at-Arms attends the punishment, and reads publicly the sentence of the court-martial alongside of each ship.

The delinquent having been put into a launch, attended by a Surgeon's Mate (now denominated an Assistant-Surgeon,) he is forthwith stripped naked to the waist, and tied up with his arms extended upon a frame of wood, when he receives a specified number of lashes. The Master-at-Arms stands beside him with a drawn sword, and reckons the lashes as they are inflicted; a drummer and fifer stand in the bow: a Lieutenant and the Surgeon of the ship accompanying the launch in another boat. The whole flotilla of boats then fall into line, taking in tow the launch containing the culprit. The fifer strikes up the Rogue's March, accompanied by the drum, *muffled*, and the procession moves on at a slow rate, following a light gig, called the dispatch-boat, which goes forward to announce the delinquent's approach to those ships where he is to receive his punishment. The prisoner having reached the ship, the crew cover the sides and channels upon that side where the procession has halted. The sentence of the court-martial is read aloud, after which two Boatswain's Mates are sent from the ship, who inflict that portion of the punishment which has been directed to be given alongside of it, the amount of lashes being divided among the number of ships belonging to the fleet. A blanket is then thrown over the man's shoulders, the flotilla of boats again take the launch in tow, the music strikes up, the dispatch-boat proceeds to the next ship as before, and thus the culprit is slowly dragged from one vessel to another, for a period extending sometimes to several hours, till the sentence has been carried into effect, or the punishment is suspended by the recommendation of the Surgeon.

I was once officially present in the launch when a seaman was flogged round the fleet; but I think it better to avail myself of an account of this mode of punishment by two naval officers, than to describe my own sensations on the occasion.

In the year 1811, when Admiral Sir C. Cotton commanded the Mediterranean fleet, a seaman belonging to a frigate was sentenced to be flogged round the fleet, and the punishment was accordingly inflicted at Port Mahon, in the island of Minorca. This harbour has such deep water, that even the largest ships lie moored close to the rocks and quays. Attracted by the cavalcade of boats, the music, and above all by the cries of the criminal, thousands of the inhabitants crowded to

the shore to witness the scene. When these spectators noticed that the punishment was *alternately suspended and renewed*, so as to produce more acute pain, they exclaimed loudly against British cruelty. "You boast of humanity," said an aged monk to the writer, "what is there in all the tortures that your nation truly or falsely impute to the tribunal of the Inquisition, more protracted or inhuman than this proceeding? Why do you suspend the lashes but to increase the agony? The culprit has already fainted twice, yet your Surgeon authorises a continuance of the whipping. Is not the poor wretch's back entirely flogged from his neck to the loins? Yet the scourging still goes on, and will frequently be suspended and renewed again before the sentence is fulfilled! What worse torture than this could disgrace the prisons of the Inquisition, or even the dungeons of Algiers?" Some attempt was made to deprecate this censure, by explaining that the difference consisted in the British seaman having had a fair and open trial, confronted with his accusers and with the witnesses; yet, whatever advantages might have attended his *trial*, it was impossible to deny that his *punishment* was altogether cruel and indefensible.—(*United Service Journal*, 1830.)

Good men, it is said, have nothing to fear from the severity of corporal punishment—an infliction which is only held *in terrorem* over the heads of bad subjects; but, in the eye of military law and military usage, the terms *good* and *bad* are frequently confounded. When offences which are very different in enormity, in popular opinion, are equally subject to severe punishments, the gradations of iniquity are destroyed. Moral virtue may be adjudged and punished as a military vice. The following example appears to be a conversion of this kind:—

In the year 1805, an *impressed seaman*, belonging to a ship in the West Indies, received a letter from his father, announcing his being in a rapid decline, and desiring his son to hasten home, if possible, that he might see him before he died. The young seaman determined to run all risks, in order to gratify his dying parent. He accordingly deserted from a watering party, but was retaken, conveyed on board, and slightly punished. He again fled from the ship, was brought back, and received a more severe flogging. Being detected in the third attempt to escape, he was brought before a court-martial, which, according to the Articles of War, might have adjudged the culprit to be hung at the yard-arm. Taking, however, into consideration the youth of the prisoner, and his having been recently impressed into the service, together with the account he gave of his motive for deserting, the court sentenced him to be flogged round the fleet, and to receive 400 lashes on board or alongside of such ships as the Commander-in-Chief might appoint. Sir Alexander Cochrane, however, was as merciful as he was brave, and there is not a braver man in the British navy. Still it was necessary to make examples, to repress the spirit of desertion, if not disaffection, which characterized some of the hastily-raised ships' companies at that period. The Admiral, therefore, remitted one-fourth of the punishment, and the remaining 300 lashes

were ordered forthwith to be inflicted.—[“*This tender mercy sounds very cruel.*”]

The fatal morning at length arrived. The young criminal’s back, which had scarcely healed since his former floggings, was quickly laid raw beneath the sharp strokes of the whip-cord. Possibly, the torture might have been endured but for the intervals in which it was suspended between one ship and another. By these cruel interruptions the benumbed flesh was repeatedly restored to sensation, and the miserable culprit frequently fainted under excess of suffering. The attending Surgeon, distressed at the scene, knew not how to determine for the best. It appeared less humane to suspend than to continue the punishment, because, as the sentence *must be executed*, there seemed real mercy in inflicting the whole number of lashes at once.\* At length, however, the back became so badly lacerated, that the flesh quivered under every stroke of the whip—the head of the sufferer fell senseless upon his bosom—the punishment was suspended—the criminal removed to the hospital, where the heat of a tropical climate produced gangrene, and in two days after he expired. — (*United Service Journal*, 1830.)

In this instance, the author thinks, “blame could hardly attach to any person. The Captain did not bring the culprit to trial till his third offence—the court-martial commuted the capital penalty—the Admiral mitigated the severity of the sentence—a skilful and humane surgeon superintended the punishment—every spectator shed tears of pity,—and yet a comparatively innocent being was openly tortured to death, under the authority of an inhuman and antiquated custom.” Homicide was perpetrated; but having been accomplished according to law, none of the perpetrators were considered legally responsible. Can anything be advanced in favour of a usage which sanctions so murderous a punishment as flogging round the fleet? It has been said, that death is *of all dreadful things the most dreadful*; but certainly such a punishment as has been described, is much more dreadful than a sentence of death. Montesquieu observes, that “there are

\* The authority of the Admiralty is required to remit a portion of a sentence awarded by a court-martial in this country. The following is a copy of a letter from the Admiralty, authorising the remission of part of a sentence, half of which had been temporarily superseded:—

Admiralty Office, 17th May, 1780.

SIR,

I have communicated to my Lords Commissioners of the Admiralty your letter of yesterday’s date, informing them, that as the two seamen, named in the margin, had been sentenced by a court-martial to receive 500 lashes, for mutinous behaviour on board the Invincible, you had excused one half of the punishment to be inflicted upon them, and recommending, for the reasons therein mentioned, as objects deserving their Lordships’ pardon; in return I am commanded by their Lordships to signify their direction to you to remit the remainder of their punishment.

Admiral Sir Thomas Pye.

(Signed) PHILIP STEPHENS.

two sorts of corruption—one, when the people do not observe the laws, the other, when they are corrupted by the laws—an incurable evil, because it is in the very remedy itself.” Strange as it may appear, the fact is not the less certain, that in the army and the navy, “*les loix auront à punir les crimes qu'elles auront fait naître.*” To enforce oppressive usages, or to multiply laws, is to multiply crime; and although the great majority of military crimes are not breaches of the moral law, it is considered essentially necessary that they should be punished. To multiply laws is, therefore, to multiply human punishments—in other words, human miseries.

The young seaman in question was, in the first instance, pressed into the service, and then obviously flogged to death; but as the infliction was conducted “according to the laws and customs in such cases used at sea,” on board His Majesty’s ships and vessels of war, the homicide will not be attributed to the members of the court-martial, or the agents who carried the sentence into effect. But it is difficult to exculpate a court-martial, the members of which have complete discretionary power in regard to the amount of punishment, for sentencing a man to receive such a fearful infliction. There is no other authority for the mode of torture called “flogging round the fleet,” with studied intervals, introduced to increase the agony, but ancient custom; and if this be admitted as a sufficient reason for its continuance, the same precedent might justify a revival of the punishments ordered by Richard I., whereby, if a man was convicted of theft, boiling pitch was to be poured upon his head, and down of feathers shaken over it;—both practices deriving their existence from the same source,—the ignorance, the barbarity, and the inhumanity of the people who lived in the age in which they originated and were practised.

Sir Richard Steel, who served long as a Marine officer, after stating the circumstances of seven men belonging to the Edgar having been sentenced *to go through the fleet*, thus describes the consequences of that terrible punishment:—

I believe no man has ever been known to hold up his head after going through the fleet. The heavy launch is fitted with a triangle, to which the wretch is tied, as if to a cross. It takes some hours to row (sometimes against wind and tide) through the fleet. The torture is, therefore, protracted till, to use a sailor’s phrase, “their very soul is cut out.” After this dreadful sentence they almost always die.

Justice towards both officers and men demands, that while our civil laws are undergoing revision, and gradually being adapted

to the more humane spirit of improved civilization, the naval code and naval usages should not be left as monuments of a period of comparative barbarity.

The infliction of corporal punishment a second time, under one and the same sentence, having been declared to be illegal in the army, the practice has long fallen into disuse, and for some time it has been interdicted; but, so far as I know, second punishments have not been prohibited in the navy. In the army, a soldier is now considered as having expiated his offence when he has undergone, *at one time*, as much of the corporal punishment to which he has been sentenced as, in the opinion of the medical officer in attendance, he is able to bear. The following account of the infliction of a second punishment for the same offence is given by an Old Officer of the navy, in Tait's *Edinburgh Magazine* for 1834, p. 320:—

Flogging round the fleet (says our author) is a punishment which is still in existence, and is evidence that all we hear of the *boot* and other instruments of torture, the horrors of the Inquisition, &c., is not mere fiction. I shall endeavour to give the reader an idea of the horrible transaction, which, in my seventeenth year, made such a lasting impression on my youthful mind, that it can never be obliterated on this side of the grave.

It was at a few minutes before eight o'clock in the morning, when the First Lieutenant of the ship ordered me to take charge of the launch, and see the punishment carried into effect. Had he given me orders to mount the sides of an enemy's frigate, at the head of a launch's crew, it would not have distressed me half so much, as I might have considered that my good luck might bring me a Lieutenant's commission; but here was a service devoid of honour and full of painful consequences, from which, however, there was no chance of escape. I must needs obey; and the heaviest, bitterest hour of my life was when I stepped into the boat to superintend the infliction of 500 lashes on the back of poor Evan Evans, a half-idiot Welshman. The men on board were ordered up to the rigging, so that every person on board might see the whole operation. The Captain, taking off his hat, which was followed by all on board and in the boats, which were lying on their oars within earshot, then proceeded to read the sentence of the court-martial. This effected, the Boatswain of the ship himself stepped into the launch; the blanket was removed from the culprit's shoulders, and he, the Boatswain, inflicted the first twelve lashes. The poor fellow screamed, and groaned, and struggled; but all this, like the struggles of the dying sheep under the knife of the butcher, passed unheeded. The Boatswain returned on board, and two Boatswain's Mates came down and completed the number of fifty lashes. The blanket was immediately thrown over his shoulders; the people were piped down out of the rigging; I gave the word of command to shove off, and the boats which took the launch in tow began to row towards

the Admiral's ship, the drummer striking up the Rogue's March. The origin of this idea of having musicin the boat, was, no doubt, to drown the groans of the sufferer, lest the ordinary feelings of humanity should revolt against the barbarous practice of so mutilating the body of a fellow-creature. A quarter of an hour elapsed, during which the poor Welshman's groans mixed with the vile sounds of the drum, and we were again alongside of a large two-decked ship, the men of which exhibited themselves in the rigging on our approach. The towing-boats lay on their oars; we hooked on to the ship, and three stout fellows jumped into the launch, each with a new cat-o'-nine-tails ready in his hand, prepared to expend his strength on the back of the sufferer. The First Lieutenant of the ship came to the gangway. I handed him a copy of the sentence, which he read aloud to the crew, and the Boatswain's Mates removed their jackets ready for the infliction. The cats, as I have just observed, were new; their lashes or tails were made of strong white cord, just the thickness of a common quill, and the glue or size, which is worked into the cord, had not been removed by soaking in water: they curled up, and were literally almost as stiff as wires. As officer of the boat, I objected to their being used for the first time on the poor man, and others were procured which had told many a tale of suffering. He looked at me gratefully, and said, in a weak voice, "Thank ye, Sir." The blanket was removed, and I observed the poor fellow shudder as the cold air struck the bleeding sore on his flesh; the next moment a heavy lash fell upon it, and his screams were agonizing. He received a dozen lashes, and then began to cry out for water. The punishment was stopped till he had taken some. He afterwards told me that at this period the thirst he felt became intense, and that each lash caused a *violent burning pain at his heart*, and seemed to fall like the blows of a large stick on his body, but that the flesh was too *dead* to feel that stinging smart he felt at first and when the flogging was renewed. *The same scene was repeated alongside two other ships*, with the like interval of misery to the sufferer and of disgust and vexation to myself. My reflections, indeed, were painful enough; for I utterly condemned myself for ever becoming one of the many unfeeling wretches who were so seriously occupied in torturing this poor wretch. Perhaps many others felt as disgusted as I did. *Two hundred lashes* had now been inflicted with a cat-o'-nine-tails, or 1800 STROKES with a cord of the thickness of a quill. The flesh, from the nape of the neck to below the shoulder-blades, was one deep purple mass, from which the blood oozed slowly at every stroke; a low groan escaped, and the flesh quivered with a sort of convulsive twitch; the eyes were closed, and the poor man began to faint. Water was administered, and pungent salts applied to his nostrils, which presently revived him in a slight degree. At this period I gave the Doctor a hint, by asking the Master-at-Arms, in a loud tone, how many lashes the prisoner had received. "Two hundred lashes, exactly, Sir," was the reply. I knew this very well, but it answered the purpose; for I saw the doctor look at me, and then ordered him to be taken down. This was instantly done, and I ordered a fast boat, in the vicinity, to take him on board. The poor fellow was laid on some blankets in the stern-sheets, the sails hoisted, and in a quarter of an hour he was in his hammock in the sick berth, and the doctors were engaged dressing his wounds. *Five*

weeks after this I was again compelled to superintend a further mutilation of the back of poor Evans. This time he looked more miserable than ever ; his frame was shrunken and his cheeks fallen, and, when his shirt was removed, *I observed that the wounds were barely healed over*, and that all about the sides of them were dark discolourations, which indicated a state of disease. I was surprised that the medical men allowed him to be taken out again for punishment. The first six lashes, given by the arm of a herculean Irishman, brought the blood spitting out from his old wounds, and then almost every blow brought away morsels of skin and flesh. It would disgust the reader to detail this second flogging. Suffice it to say, the poor fellow fainted when he had received another 150 lashes ; but the Surgeon deemed him still capable of a little more punishment, another thirty-three were inflicted. A second faint and convulsive action of the eyes put an end to his torture. He was removed to the guard-ship, and having taken 318 lashes, the remaining 117 were remitted by order of the Admiral. The ship sailed for a cruise in the North Sea ; and some months after we heard that poor Evan Evans had been sent to the prison of the Marshalsea, where he fell into a consumption, and ended his days. This was just what I expected : for it was clear that the first flogging had given the death-blow to the unfortunate Welshman.

The Old Officer thus concludes :—

I think that any argument against the system of *torturing* our seamen would have little effect with those readers whose minds are not made up to condemn it after perusing the above account, which is not in the slightest degree exaggerated ; and I have no observation to make to those who have, like myself, already determined that it is as offensive to humanity as it is contrary to good policy.

Such is an account of the punishment of flogging through the fleet, by an Old Officer. To exhibit the true character of the punishment in question, he has considered it necessary to describe the mode of its infliction in detail. We may form a very different estimate of a measure when we contemplate it in a general way, and when we examine it particularly. War, for example, in the abstract, is, in popular opinion, considered an honourable and glorious pursuit ; but if we examine the subject more particularly, we shall find that practical hostilities consist of one man endeavouring to push his bayonet into the body of another man, of whom he knows nothing, or to shoot him through the head. Thus viewed, war may make a somewhat different impression.

I may here observe, that the punishment of flogging round the fleet has not yet been abolished, nor has it fallen into disuse. A court-martial was held on board Her Majesty's ship Minden, at Hong-Kong, on the 5th January, 1844, to try two seamen for desertion, Rear-Admiral Sir Thomas Cochrane, C.B., being

President. They were both found guilty, and each was sentenced to receive 100 lashes.

On the morning of the 9th January the yellow flag, the signal of punishment, was displayed from the Agincourt, the gun was fired, and fourteen boats, manned and armed, assembled to attend the punishment, which was executed in the usual barbarous manner. Notwithstanding the cruel character of the Chinese punishments, the inhabitants witnessed the exhibition with astonishment.

The summary punishments to which seamen were liable about the end of the sixteenth century, were, according to Sir William Monson, as follows :—“A Captain,” says Sir William, “is allowed to punish according to the offence committed ; to put men in the bilboes during pleasure ; keep them fasting ; duck them at the yard-arm or haul them from yard-arm to yard-arm under the ship’s-keel ; or make them fast to the capstan or main-mast ; hang weights about their necks, till their hearts and backs be ready to break ; or to gag or scrape their tongues for blasphemy or swearing. This will tame the most rude and savage people in the world.” To these we may add excommunication, as appears by the following quotation from a fragment of MS. notes of Drake’s Voyages, preserved in the Harleian Collection :—

“*Mem.*—That Drake excommunicated Fletcher shortly after we were come off the rock, in this manner, namely, he caused him to be made fast by one of the legs, and a staple knocked fast into the hatches in the fore castle of his ship ; he called all the company together, and put a hook round one of his legs ; and Drake sitting cross-legged on a chest, and a paire of pantoffles in his hand, he said :—‘Francis Fletcher, I doe here excommunicate thee out of the church of God, and from all the benefits and graces thereof, and denounce thee to the Divell and his Angells.’ And then he charged him uppone payne of deth not to come before the mast, for yf he did he swore he should be hanged. And Drake caused a posy to be written, and bounde about Fletcher’s arme, with charge that if he took it off, he should then be hanged ;—the posy was, ‘Francis Fletcher, the falsest knave that liveth.’”

“Excommunication is a singular addition to Sir William Monson’s catalogue of the naval punishments in use in the time of Elizabeth ; but to excommunicate the only parson in the squadron seems a very original proceeding !”—(*Edinburgh Review*, vol. lxxx., p. 390.)

I come now to describe the summary punishments inflicted in modern times at the discretion of a Captain or Commanding Officer, "according to the laws and customs in such cases used at sea;" and, first in order, I have to give an account of flogging at the gangway.

1. *Flogging at the Gangway.*—“This punishment,” says Mr. M‘Arthur, “is not so severe in the army as in the navy.” He thinks one dozen of lashes applied to the bare back, by a Boatswain’s Mate, furnished with a naval cat-o’-nine-tails, is equivalent to at least fifty laid on by a drummer with a military cat. This arises not so much from the expertness of one executioner over another in the mode of laying on his lashes, as from the comparative thickness, hardness, and greater dimensions of the instrument, aided, no doubt, by the superior strength of the Boatswain’s Mate, when compared with that of a drummer.

Mr. M‘Arthur thinks the enquiring mind may be apt to ask, whence does this difference of severity in the punishment with a naval cat-o’-nine-tails arise? A very natural question certainly. He seems to find no difficulty in satisfying himself that the cause is obvious,

When we reflect (says he) that no inferior courts-martial, analogous to regimental ones, are admitted in the navy, and that a Captain or Commander of any of His Majesty’s ships is restricted, by the printed instructions, from inflicting any more than twelve lashes upon the bare back of a seaman for any minor offence; and that, if the fault should deserve a greater punishment, he is directed to apply for a court-martial. Hence it has been the ancient practice and usage in the *navy* for Commanders to have the cat-o’-nine-tails made of cord of a certain weight and texture, that the same force or power, applied to one lash, is equal to four of the common cat used in the *army*.

According to this theory, a Captain ought not to sanction the use of the large cat when he inflicts a sentence above twelve lashes; and it ought not to be employed when a man is flogged round the fleet; but in practice, the large, or navy cat, is employed under all circumstances. Unlimited and irresponsible power has a much greater tendency to increase than to meliorate the pains and penalties of naval usages—“the laws and customs used at sea;”—and the enormously large cat of the navy is only a part and parcel of the discretionary power with which officers are invested, and which has sometimes been used very indiscreetly.

Notwithstanding the prohibition of the printed instructions, Captains frequently inflicted several dozen lashes at a time, especially where an offence could be considered as falling under

different Articles. Upon this latter construction, a seaman may be punished with three dozen for getting drunk, which offence falls under the 2nd Article, and in that state may disobey his officer, and quarrel or fight with some person in the fleet, which brings him under the 22nd and 23rd Articles. What will ancient practice and usage not justify !

The cat-o'-nine-tails in the navy, according to Dr. William Burney, editor of an edition of *Falconer's Marine Dictionary*, (1816,) is composed of nine pieces of line, or cord, about half a yard long, fixed upon a piece of thick rope for a handle, and having three knots on each, at small intervals, the first being near the end. The dimensions of a regular navy cat now laying before the writer, are as follows :—The instrument consists of a wooden handle, and nine cords, the cord being common log line. The handle is one foot seven inches in length, and about one inch and a quarter in thickness: the cords are two feet nine inches in length, and doubly whipped at the end. Commanding Officers sometimes order three knots to be put on each cord, when a man is to be punished on account of a disgraceful offence, such as theft, &c.

By the existing regulations or usage of the navy, the Captain or Commander of every ship or vessel is authorised to inflict corporal punishment on any seaman, marine, or boy, by warrant under his hand; but until lately he might order a man to the gangway to be flogged, without the formula of a warrant, whenever he thought it necessary to do so; and it was the usage of the service to direct corporal punishment to be inflicted immediately, sometimes even by torch-light, or within a very brief period after an offence had been committed.

As an example of what was done in the summary way in the navy, and, by inference, of what might be done with comparative impunity, I may state the following fact :—The late Admiral Cornwallis, who was commonly known in the navy by the sobriquet of "Blue Peter," came upon the deck one day after dinner, and having found fault with something which was going on, he ordered the Lieutenant, who was the officer of the watch, to be flogged at the gangway, which was accordingly executed forthwith. Having been informed next day of the circumstance, it was with difficulty that he would credit the statement; but the exhibition of the officer's back was proof irresistible. The Admiral then took a cane, or staff, and, presenting it to the officer, said, "I have disgraced you, and as the only reparation I can make, I have to

beg that you will lay it on my shoulders." The officer declined doing so. Through the interest of the Admiral, the Lieutenant was soon after appointed to the lucrative situation, of a Collector of Excise in Scotland.

Some very judicious measures have been adopted by the Admiralty, of late years, to abolish cruelty and restrain severity. Ever since 1811, each Captain has been directed to forward a quarterly report of punishments inflicted by his order, specifying the nature of the offence and the number of lashes; and lately a custom has been pursued of demanding special explanations, in all cases where the punishment has exceeded four dozen lashes. The warrant which the Captain issues, before a man is punished, details the nature of the offence, together with the evidence, and all the other circumstances that are necessary to form a judgment of the case.

The following is an Official Return of the Corporal Punishments inflicted in the Royal Navy in each of the years 1839 to 1843, both inclusive; stating the highest and lowest number of Lashes at each time, and the aggregate number of Lashes in each year:—

#### 1839.

Total number of Punishments . . . . .	2,007
Total number of Lashes . . . . .	59,341
Highest number inflicted at one time . .	60
Lowest number inflicted at one time . .	3

#### 1840.

Total number of Punishments . . . . .	2,026
Total number of Lashes . . . . .	60,302
Highest number inflicted at one time . .	48
Lowest number inflicted at one time . .	1

#### 1841.

Total number of Punishments . . . . .	2,066
Total number of Lashes . . . . .	61,669
Highest number inflicted at one time . .	50
Lowest number inflicted at one time . .	2

#### 1842.

Total number of Punishments . . . . .	2,472
Total number of Lashes . . . . .	71,024
Highest number inflicted at one time . .	100*
Lowest number inflicted at one time . .	1

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\* By sentence of court-martial.

1843.

Total number of Punishments . . . . .	2,170
Total number of Lashes . . . . .	63,985
Highest number inflicted at one time . . .	60
Lowest number inflicted at one time . . .	3

H. M. AMEDROZ, Chief Clerk.

Admiralty, 18th June, 1845.

Another very important rule or usage for restraining severe or inconsiderate punishments, has been adopted, never to punish a man the same day on which the offence has been committed. This wise measure, although only very lately ordained in our navy, was recommended by Sir William Monson. "The seaman," says Sir William, "is willing to give or receive punishment deservedly, according to the laws of the sea, and not otherwise according to the fury or passion of a boisterous, blasphemous, swearing commander;" and he adds, "punishment is fittest to be executed in cold blood, the *next day* after the offence is committed and discovered."

Antecedent to June 1811, when the quarterly returns of punishments to the Admiralty were instituted, there was little or no restraint upon the despotic authority of the Captain, in regard to the infliction of corporal punishments: and it will be in the recollection of everyone who served in the navy in those days, that Captains who were perhaps not really cruel by nature, nor more intemperate than the ordinary run of men, were occasionally—some, perhaps, would say frequently—led, by the mere indulgence of unlimited and unscrutinized authority, to inflict the most unjustifiable punishments, such as, in fact, were neither equitable nor useful, but, on the contrary, hurtful to the discipline of the ships, and degrading to the character of the service. Notwithstanding the reluctant acquiescence which the above humane regulation met with from conscientious but prejudiced individuals, (officers who were terrified at the imaginary danger of innovation,) much good has already followed; and it is to be hoped that the melioration of the service will be progressive. It is highly gratifying to learn, from competent authority, that ever since the period when it became the duty of Captains to make periodical returns to the Admiralty of the number of corporal punishments, those punishments have gradually decreased; meanwhile the discipline has gone on improving. "Still the snake," according to Sir Richard Steel, "is only scotched, not killed," as the following *recent* occurrence will go far to prove.

Lieutenant V—, of the Royal Engineers, who had the command of a detachment of Sappers and Miners, which was employed in the north of Spain only a few years ago, applied to the officer commanding the Royal Marine Battalion—he being the senior military officer on the spot—for a detachment court-martial upon some of his men, which Colonel O— expressed his readiness to grant; but, as a matter of courtesy, he desired the Lieutenant to mention the circumstance to the *Commodore*, who observed, that the proposed ceremony of a court-martial was superfluous and unnecessary. He then ordered the accused Sappers and Miners to be taken on board the Tweed sloop of war, Commodore —, to whom he addressed a note, ordering, that on their being brought on board they were to have a good flogging each; and on their arrival on board the Tweed they were tied up and flogged accordingly.

A commander of a man-of-war (says Sir Richard Steel) can flog any man under his pennon, without even the mockery of a trial. I never think of this without my blood running alternately hot and cold within me. Take an instance of the result of the practice. It was the custom of Captain —, of the A— frigate, to flog the last man who lay in from the yard after reefing or handing sails; and it happened in a fresh gale that the Captain of the foretop, the smartest and best seaman in the ship, after close-reefing the top-sail, saw that the weather-earing was not properly hauled out. He was compelled, therefore, to lay out again to complete his work,—having accomplished which, and recollecting the ignominy that inevitably awaited him, he threw himself from the yard-arm into the sea, and perished. But retribution in this case took the monster singly to herself,—the tyrant of the A— was shot by one of his own people in the midst of battle, and the ill-fought badly-defended frigate fell into the hands of the enemy.—(*The Marine Officer, or Sketches of Service*, 1840.)

Some Captains of ships (says Sir Richard Steel) kept their cats steeped in brine, to make their horrid punishments still more cruel; but this was unusual, and always reprobated.

The punishment of flogging at the gangway usually takes place at half-past eleven o'clock, A.M., (seven bells,) and the infliction is executed in the following manner:—The carpenters are ordered to “rig the gratings,” that is, to fasten two gratings at the gangway, in such a manner that the culprit stands upon one, to which his feet are fastened, and leans forward against the other, to which his hands are secured. The officers appear in their cocked-hats and side-arms, and the marines are “under arms;” the ship’s company stand on the opposite side of the deck. Near the gratings the delinquent stands, and close to him the Master-at-Arms, with his sword drawn. The Boatswain and Boatswain’s

Mates complete the line round him. One of the Mates is commonly standing ready with a cat-o'-nine-tails, half concealed under his jacket. These arrangements being made, the First Lieutenant reports the same to the Captain, who usually comes upon deck forthwith. The Captain sometimes addresses the crew, together with the culprit, and concludes by ordering him to "strip." When he has stripped, the Captain says, "Seize him up," and he is instantly fastened to the gratings. An Article of War, relative to the punishment, is then read by the Captain, who concludes by ordering the Boatswain's Mate to "give him a dozen." While the Article of War is being read, the officers, including the Midshipmen, stand uncovered. The punisher, who is usually a powerful man, having separated the cords with the fingers of the left hand, throws the cat over his right shoulder, and then brings it down upon the culprit's back, apparently with all his strength. It would appear that in some ships a Sergeant of Marines was employed to reckon the lashes, and regulate the time of infliction, by means of a sand-glass of a quarter of a minute. At the conclusion of a dozen another Boatswain's Mate is called, for the purpose of inflicting an equal number, and so on until the Captain suspends the punishment. The author of *A Man-of-War's Man* strongly objects to this mode of punishment. "It is," says he, "in every shape, and in all its bearings, a cool, cowardly, contemptible waste of human blood." Leech states, that before coming on deck, "the prisoner's messmates carry him his best clothes, to make him appear in as decent a manner as possible. This is always done in the hope of moving the feelings of the Captain favourably towards the prisoner."—(*Thirty Years from Home.*)

However severe flogging at the gangway obviously is, delinquents have been known to make a joke of it, apparently for the purpose of annoying the officer who ordered the infliction. The author of *The Port Admiral* asserts as a fact, that a seaman named Collins, who had received four dozen without a word, when the Captain nodded to the Master-at-Arms, saying, "Cast him off," quietly turned his head towards his superior, and with an indescribable air of drollery said, "Thank ye, your honour, thank ye; I was just a-dozing off to sleep." A suppressed laugh among the crew, and a look of rage from the Captain, was the effect of this sally; the latter ordering the Boatswain's Mate to give him two dozen more, which failing to move his stoicism, he was at length liberated.

2. *The Gauntlet* is inflicted in the following manner:—The whole ship's crew is disposed in two rows, standing face to face, on both sides of the deck, so as to form a lane whereby to go forward on one side and aft on the other, each person being furnished with a small twisted cord or rope called a *knittle*, having two or three knots upon it. The delinquent is then stripped naked above the waist, and brought to the gangway, where he receives one dozen from a Boatswain's Mate. Next follows what may be called a procession, which takes place between the two rows of men in the following order:—1st. A drummer, who beats the Rogue's March. 2nd. The Master-at-Arms, having a drawn cutlass under his arm, with the point directed behind him towards the delinquent. 3rd. The culprit. 4th. The Surgeon's Mate. The delinquent passes forward between the two rows of men on one side, and aft on the other, a certain number of times, rarely exceeding three, during which every person lays on him with their knittles. All the officers are present, and when the Captain sees fit, he directs the punishment to cease.

The ordinary effects of the gauntlet are, excessive tumefaction of the shoulders and ribs; the parts do not usually ulcerate, but the sufferer is commonly some time on the sick list, being unfit for duty.

3. *Starting*.—This punishment is thus described by Dr. Burney:—"A vulgar or common term, denoting a summary mode of punishment, formerly used on board ships, which was inflicted on the seamen by the Boatswain's Mate with a rope's end, by order of the Commanding Officer, for laziness at their duty, and frequently resorted to for want of alacrity in hoisting the top-sails to the mast-head, and to quicken their efforts in getting boats in and out, also in hoisting in beer and water, and in performing such like duties."

Starting was, as I had occasion to witness, frequently inflicted upon men who were a few minutes late for muster when their watch was called, and such like alleged delinquencies. Starting was a most severe punishment. It is related of the Captain of the Edgar, that he flogged his men "till," as he told his First Lieutenant, "he was tired of flogging, and therefore handed them over to the Lieutenants to be started, being a more prompt punishment than flogging." It used to be said, that "a good starting, that is, beating a man with a rope till he cannot see, was worse than a bad flogging."—(Sir R. Steel.)

4. *Keel-hauling*.—This punishment was frequently resorted to

in the Royal navy, as well as in the merchant service, about the time of the Revolution (1688); and it appears to have been borrowed from the Dutch navy, where it is said to be still practised. To keel-haul, is to suspend a delinquent by a rope from one yard-arm, with a weight of lead or iron upon his legs to sink him to a competent depth, and having another rope fastened to him, leading under the ship's bottom, and through a block at its opposite yard-arm; he is then repeatedly and suddenly let fall into the sea, where, passing under the ship's bottom, he is hoisted on the opposite side of the vessel to the other yard-arm.

5. *Ducking*.—This punishment used to be inflicted in the navy for uncleanness, blasphemy, or scandalous actions. The French inflict it on those who have been convicted of desertion, or persons who are alleged to be seditious. The punishment is inflicted in the following manner:—The delinquent is placed astride on a short thick batten, fastened to the end of a rope, which passes through a block hanging at one end of the yard-arm. This fixed, he is hoisted suddenly up to the yard, and the rope being slackened at once, he is allowed to fall into the sea. This chastisement is repeated several times, and by having double-headed shot fastened to his feet during the punishment, he sinks a considerable depth before he is hoisted up again.

6. *Gagging* is described by Dr. Burney as a mode of punishment used in the navy to prevent insolent language during confinement for drunkenness or other misconduct.

The infliction of this punishment, or measure of restraint, is thus described by a medical officer of the navy:—

I have (says Dr. Forbes) seen gagging performed in the following manner:—A piece of wood or iron, various in diameter and length, is introduced into the mouth, exactly in the way a bit is introduced into the mouth of a horse, so that a portion of it shall project from each side. It is retained in this position by means of a cord passed over the projecting extremities and behind the head. As the operation is one which is seldom proposed but when gentler means have failed to procure a cessation of outrageous conduct, it will naturally be concluded that it is one which is never voluntarily submitted to. Against the drunk man's efforts, accordingly, to keep his mouth shut, considerable force must generally be employed before the business can be properly accomplished.

In the year 1815, Captain J. T.—, of His Majesty's sloop M—, was tried by a court-martial on charges of cruelty and oppression. The first charge stated, that "Thomas Payne, belonging to His Majesty's sloop M—, had suffered a dislocation of the jaw, from the severe punishment of gagging, inflicted on him by

direction of Captain J. T.—.” The pieces of wood with which Payne was successively gagged were of fir, about six or seven inches long, and of the thickness of the finger or thumb. Payne bit through one or more pieces of wood successively ; and when he had bitten through the third piece, he appeared to have hurt himself, and upon examination by the Surgeon, it was found that his jaw was completely dislocated. The dislocation was shortly after reduced ; but next day, or the day after, the Surgeon discovered that the jaw was again in a state of dislocation, and his repeated attempts to reduce it were ineffectual. The distortion and disfigurement of countenance was disgusting and humiliating, conveying the impression of idiotism.

The decision of the court was as follows:—“The court is of opinion that the dislocation of Thomas Payne’s jaw was occasioned by his own violence in biting the piece of wood through, and *by a facility which he had of putting the jaw out and in himself*, and not from the severe punishment of gagging.” The prisoner was accordingly most fully acquitted. It would have been well, however, if, while the court-martial acquitted Captain T—, the members had abstained from criminating the unfortunate man Payne.

A witness on the trial stated, that he had usually seen “the pump-bolt,” the iron bolt on which the handle of the ship’s pump works, “bayonet, and drum-stick,” used for the purpose of a gag.

In acquitting Captain T—, the court doubtless proceeded upon the following grounds:—1st. That, by the Articles of War, Payne merited punishment. 2nd. That, by the same Articles, a discretionary power is left with Captains to punish alleged criminals “according to the *customs* in such cases used at sea.”—*Vide* “History of a Case of Dislocation of the Lower Jaw, with Remarks on the Sentence of a Court-Martial held to investigate the nature of the Causes that produced it ; by John Forbes, Esq., Surgeon, Royal Navy.”—(*Edinburgh Medical and Surgical Journal*, 1817, vol. xiii., p. 315.)

A practice prevailed at one time in some lunatic asylums, of “muffling” the more noisy patients, which consisted in binding a cloth tightly over the mouth and nostrils, for the alleged purpose of “dunning” the noise, and keeping the patients quiet. The punishment of gagging was obviously a dangerous means of restraint, although it was perhaps less hurtful, or less liable to abuse, than the half-burking system of repressing noise by “muffling” patients. Muffling, or burking, is a very ancient mode of promoting silence.—(2 Kings viii., 15.) The mode

adopted for coercing maniacs, until lately, in some parts of Ireland, by interring them, in an erect position, up to the neck, and covering the head with a basket, exceeds most other measures of restraint for barbarity.

In 1835 gagging was still used in the East India Company's army, as a means of silencing talkative soldiers.—(*Asiatic Journal*, vol. xviii., part ii., p. 156.)

7. *Spread Eagle*.—This punishment I have seen inflicted on a man while he was in a state of inebriety. The culprit is placed upon the standing rigging of the mizenmast, his feet and arms being stretched wide, and secured. In this state he remains until the officer of the watch directs him to be taken down.

8. *The Wooden Collar*.—This instrument of punishment appears to be a modification of the Chinese *kea* or *cangue*, a portable pillory, consisting of two thick pieces of wood, hollow in the middle, so as to fit the neck of an offender, and about two feet broad. On the upper surface of the collar shot are fixed, by which means the instrument is made heavy or light, according to the nature of the crime or the pleasure of the Commanding Officer; generally it is about sixty pounds' weight. The delinquent is to wear the instrument on deck, or in some public place of a ship.

9. *Barrel Pillory*.—Another species of pillory has lately been adopted in the navy as a punishment, which, according to report, has effectually supplanted flogging. Two large barrels are placed on the quarter-deck, in which the culprits are placed several hours during the day, wearing a cap not unlike that used in some schools, and designated the fool's cap. In front of the cask is written the nature of the offence committed, and in this manner they are subjected to the gaze of the curious who visit the ship, as well as the ridicule of their comrades.

10. *Carrying a Capstan Bar*.—This punishment consists in a man being obliged to carry a heavy beam of wood, and to walk fore and aft upon the weather gangway, for the period of a watch, or about four hours.

11. *Black List*.—This list is composed of men who have been guilty of venial offences, commonly some trivial neglect of duty, and are placed on the black list of the First Lieutenant. The ingenuity of officers to punish in this manner, rather than resort to the cat, has been most amply exemplified of late years. The author of *The Life of a Sailor* informs us, that he "knew a Captain who made the black list men, when their duty was over for the day, carry their hammocks on their shoulders up and down the

quarter-deck, at every six feet placing a rope about three feet from the deck, and making these poor devils, who followed one another like sheep, step over each rope. The exertion required, and the consequent fatigue experienced, is beyond all calculation."

How far the administration of the Articles of War has been meliorated during the last twenty or twenty-five years, I leave to be described by those who are better acquainted with the practical working of the existing rules and usages of the navy, than the writer professes to be.



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